

FARGO CITY COMMISSION AGENDA
Monday, April 4, 2022 - 5:00 p.m.

City Commission meetings are broadcast live on TV Fargo Channel 56 and online at www.FargoND.gov/streaming. They are rebroadcast Mondays at 5:00 p.m., Thursdays at 7:00 p.m. and Saturdays at 8:00 a.m. They are also included in the video archive at www.FargoND.gov/citycommission.

- A. Pledge of Allegiance.
- B. Roll Call.
- C. Approve Order of Agenda.
- D. Minutes (Regular Meeting, March 21, 2022).

CONSENT AGENDA – APPROVE THE FOLLOWING:

- 1. 2nd reading and final adoption of an Ordinance Rezoning Certain Parcels of Land Lying in Legacy I Seventh Addition; 1st reading, 3/21/22.
- 2. Receive and file Summons in the matter of David Swanson, as Personal Representative of the Estate of Amy Swanson, deceased vs. Trax Entertainment Group, Ltd. f/k/a Jam Theatricals, Ltd., City of Fargo and Fargo Dome Authority.
- 3. Resolution Establishing Massage Therapy Establishment Requirements and Fee.
- 4. Gaming Site Authorizations Jon Greenley Amvets Post #7 at Amvets and Hi-Ho Burgers and Brews.
- 5. Applications for Games of Chance:
 - a. El Zagal Provost Gaming for a sports pool from 9/22 to 1/23.
 - b. ND Pottery Collectors Society for a raffle on 6/11/22; Public Spirited Resolution.
 - c. Fargo Lions for a sports pool from 9/12/22 to 1/9/23.
 - d. TNT Kid's Fitness for a raffle on 4/7/22.
 - e. YWCA Cass Clay for a raffle on 4/25/22.
 - f. Essentia Health Fargo Foundation for a raffle board on 5/3/22.
 - g. St. John Paul II Catholic Schools for a raffle on 4/30/22.
 - h. Fargo Youth Baseball for a raffle on 4/9/22.
- 6. Purchase of Agenda and Meeting Management Software.
- 7. Bid award for Project No. TM-22-A1.
- 8. Bid advertisement of Project No. FM-22-C.
- 9. Amended Memorandum of Offer to Landowner for Permanent Easement (Levee and Retaining Wall for Flood Control), Permanent Easement (Storm Sewer) and Easement (Temporary Construction Easement) with Jessica L. and Darrell R. Johnson (Project No. FM-19-C).
- 10. Encroachment Agreement with the Dakota Boys and Girls Ranch Foundation.

- Page 21.
11. Farm Lease (Oak Grove) with Chad Johnson and Kyle Johnson for property at 5636, 5638, 6054 and 6056 Veterans Boulevard South.
 12. Access Easement (Storm Sewer Easement) with Southeast Cass Water Resource District.
 13. Sole Source Procurement with Automated Maintenance Services, Inc. for 3rd floor janitorial services at City Hall (RFP21014B).
 14. Agreement for Professional Services with KLJ Engineering, LLC for the GTC Elevator Modernization and the Municipal Court Reroofing Projects (SSP22063).
 15. Notice of Grant Award with the ND Department of Emergency Services-Division of Homeland Security for FY 2021 Homeland Security Grant Program (CFDA #97.067).
 16. Sole Source Procurement with Grand Forks Fire Equipment for the purchase of self-contained breathing apparatus, a new fill station and Mako breathing air system (SSP22065 a and b).
 17. Contractor Agreement with SOCO Consulting, LLC and SurryStone Resources, LLC.
 18. Resolution Approving Plat of Industrial Subdivision Number 5.
 19. Bid award for two automated side load refuse trucks (RFP23001).
 20. Bid award for two hook hoist refuse bodies (RFP23002).
 21. Change Order No. 2 for an increase in the amount of \$2,470.00 for the Metro Transit Garage Hoist Installation Project (RFQ21072).
 22. Sole Source Procurement with Filmtec Corporation for the Effluent Reuse Facility Ultrafiltration Membranes (SSP22064).
 23. Agreement for Cost-Share Reimbursement Fargo Regional Water System Distribution Extensions Project with the State of ND through the State Water Commission.
 24. Contract and bond for Project No. UR-21-A1.
 25. Bills.
 26. Amended Engineer's Report for Improvement District No. BN-22-K.
 27. Permanent Easement (Street and Utility) with J-Street Properties, LLC (Improvement District No. BN-22-L1).
 28. Bid awards for the following Improvement Districts:
 - a. No. PR-22-F1.
 - b. No. TN-22-A1.
 29. Create the following Improvement Districts:
 - a. No. BN-22-L.
 - b. No. PN-22-A.
 - c. No. UN-22-M.
 30. Contract and bond for Improvement District No. PR-22-E1.

31. **RESIDENT COMMENTS** (Fargo residents will be offered 2.5 minutes for comment with a maximum of 30 minutes total for all resident comments. Residents who would like to address the Commission, whether virtually or in person, must sign-up at FargoND.gov/VirtualCommission).
32. ***Public Input Opportunity* - PUBLIC HEARINGS - 5:15 pm:**
 - a. Metropolitan Park Third Addition (4400 Calico Drive and 4455 30th Avenue South); approval recommended by the Planning Commission on 3/1/22:
 1. Zoning Change from LC, Limited Commercial and MR-3, Multi-Dwelling Residential to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay.
 2. 1st reading of rezoning Ordinance.
 3. Plat of Metropolitan Park Third Addition.
 4. Planned Unit Development Master Land Use Plan.
 - b. Rocking Horse Farm Sixth Addition (5801 52nd Avenue South); approval recommended by the Planning Commission on 2/1/22:
 1. Growth Plan Amendment on the proposed Rocking Horse Farm Sixth Addition from Commercial to Public and Institutional.
 2. Zoning Change from AG, Agricultural to P/I, Public and Institutional.
 3. 1st reading of rezoning Ordinance.
 4. Plat of Rocking Horse Farm Sixth Addition.
 - c. Application filed by Dakota Specialty Milling, Inc. for a Payment in Lieu of Tax Exemption for a project to be located at 1430 41st Street North which the applicant will use for an addition to the existing building to expand their operation, which includes agricultural processing.
33. Recommendation to approve the Credit Agreement with Bank of North Dakota for financing associated with the local cost-share for Series C work on the Red River Valley Water Supply Project.
34. Recommendation to authorize appropriate staff to negotiate an agreement with the ND Soybean Processors and Cass Rural Water Users District for water and wastewater services.
35. Recommendation to amend the Master Services Agreement with Innowatts, Inc. for the development and operation of an ICRSR Plan and Carbon Dashboards for City Facilities.
36. Update on Affordable Housing Properties.
37. Recommendation to accept the offer from the Kilbourne Group for the purchase of 419 3rd Street North and to direct staff to draft a Development Agreement.
38. Applications for Property Tax Exemptions for Improvements Made to Buildings:
 - a. David and Brittany Piper, 2825 Maple Street North (5 year).
 - b. Shaun Anderson and Jasmine Swinland, 1524 11th Avenue South (5 year).
 - c. James and Caryn Neary, 2915 32nd Street South (5 year).
39. Appointments to the Community Development Committee.

32w

City of Fargo Staff Report			
Title:	Metropolitan Park Third Addition	Date: Updated:	12/29/2021 2/23/2022 3/31/2022
Location:	4400 Calico Drive and 4455 30th Avenue South	Staff Contact:	Donald Kress, current planning coordinator
Legal Description:	Lot 2, Block 1, Metropolitan Park Addition and Lot 4, Block 1 of Metropolitan Park Second Addition to the City of Fargo, Cass County, North Dakota.		
Owner(s)/Applicant:	Metropolitan Apartments LLC/JPR Investments, LLC #13 / Nate Vollmuth-Goldmark	Engineer:	Mead and Hunt
Entitlements Requested:	Zoning Change (From MR-3, Multi-Dwelling Residential and LC, Limited Commercial to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay); a PUD Master Land Use Plan ; and a Minor Subdivision (replat of Lot 2, Block 1, Metropolitan Park Addition and Lot 4, Block 1 of Metropolitan Park Second Addition to the City of Fargo, Cass County, North Dakota)		
Status:	City Commission Public Hearing: April 4, 2022		

Existing	Proposed
Land Use: Multi-Dwelling Residential and Undeveloped;	Land Use: Multi-Dwelling Residential
Zoning: LC, Limited Commercial and MR-3, Multi-Dwelling Residential	Zoning: MR-3 with PUD overlay
Uses Allowed: LC, Limited Commercial , allows colleges, community service, daycare centers of unlimited size, health care facilities, parks and open space, religious institutions, safety services, offices, off premise advertising signs, commercial parking, retail sales and service, self service storage, vehicle repair, limited vehicle service. MR-3, Multi-Dwelling allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religious institutions, safety services, schools, and basic utilities.	Uses Allowed: MR-3, Multi-Dwelling allows detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religious institutions, safety services, schools, and basic utilities. PUD adds daycare for 13 or more children or adults.
Maximum Lot Coverage Allowed: LC allows a maximum lot coverage of 55% Maximum Density Allowed: MR-3 allows a maximum density of 24 dwelling units per acre	Maximum Density Allowed: MR-3 allows a maximum density of 24 dwelling units per acre, increased to 32 dwelling units per acre with PUD overlay

Proposal:

PROJECT HISTORY NOTE: This project was originally scheduled for the January 4th, 2022 Planning Commission hearing. At that hearing, staff recommended continuation of the project though discussion was held at that hearing. Staff continued to work with the applicant on certain site design aspects so the project was continued from the February 1st, 2022 Planning Commission to the March 1st 2022 Planning Commission in order to provide time to work these items out

(continued on next page)

- The applicant requests three entitlements:
- Page 5 1. **Zoning Change** (From MR-3, Multi-Dwelling Residential and LC, Limited Commercial to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay);
2. **PUD Master Land Use Plan**; and
3. **Minor Subdivision** (replat of Lot 2, Block 1, Metropolitan Park Addition and Lot 4, Block 1 of Metropolitan Park Second Addition to the City of Fargo, Cass County, North Dakota)

This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

Surrounding Land Uses and Zoning Districts:

- North: LC with retail/service uses and MR-2, Multi-Dwelling Residential, with multi-dwelling residences and some undeveloped property.
- East: MR-1: Multi-Dwelling Residential with multi-dwelling residences (condominiums)
- South: LC with Fargo Housing Authority ownership; MR-2: Multi-Dwelling Residential with multi-residential dwellings; and MR-3: Multi-Dwelling Residential with multi-residential dwellings
- West: LC with retail/service uses and some undeveloped property.

Area Plans:

The subject property was originally designated as "medium to high density residential" in the Growth Plan for the Urban Fringe and Extra-Territorial Areas of the City of Fargo, specifically the Southwest Area Plan. On January 6, 2003, the City Commission approved a change to the "Commercial" land use designation along the east side of 45th Street South. This area is now part of the Metropolitan Park Second Addition. The proposed zoning of MR-3, Multi-Dwelling Residential for Metropolitan Park Third Addition is consistent with the "medium to high density residential" land use designation on the subject property.



Context:

Schools: The subject property is located within the West Fargo School District, specifically within the Freedom Elementary, Liberty Middle and Sheyenne High schools.

Neighborhood: The subject property is located within the Anderson Park neighborhood.

Parks: Anderson Softball Complex, located at 4200 23rd Street South, is approximately 800 feet north of the subject property, and provides amenities of baseball/softball fields, concessions, picnic table, playground for ages 2-5, and restrooms

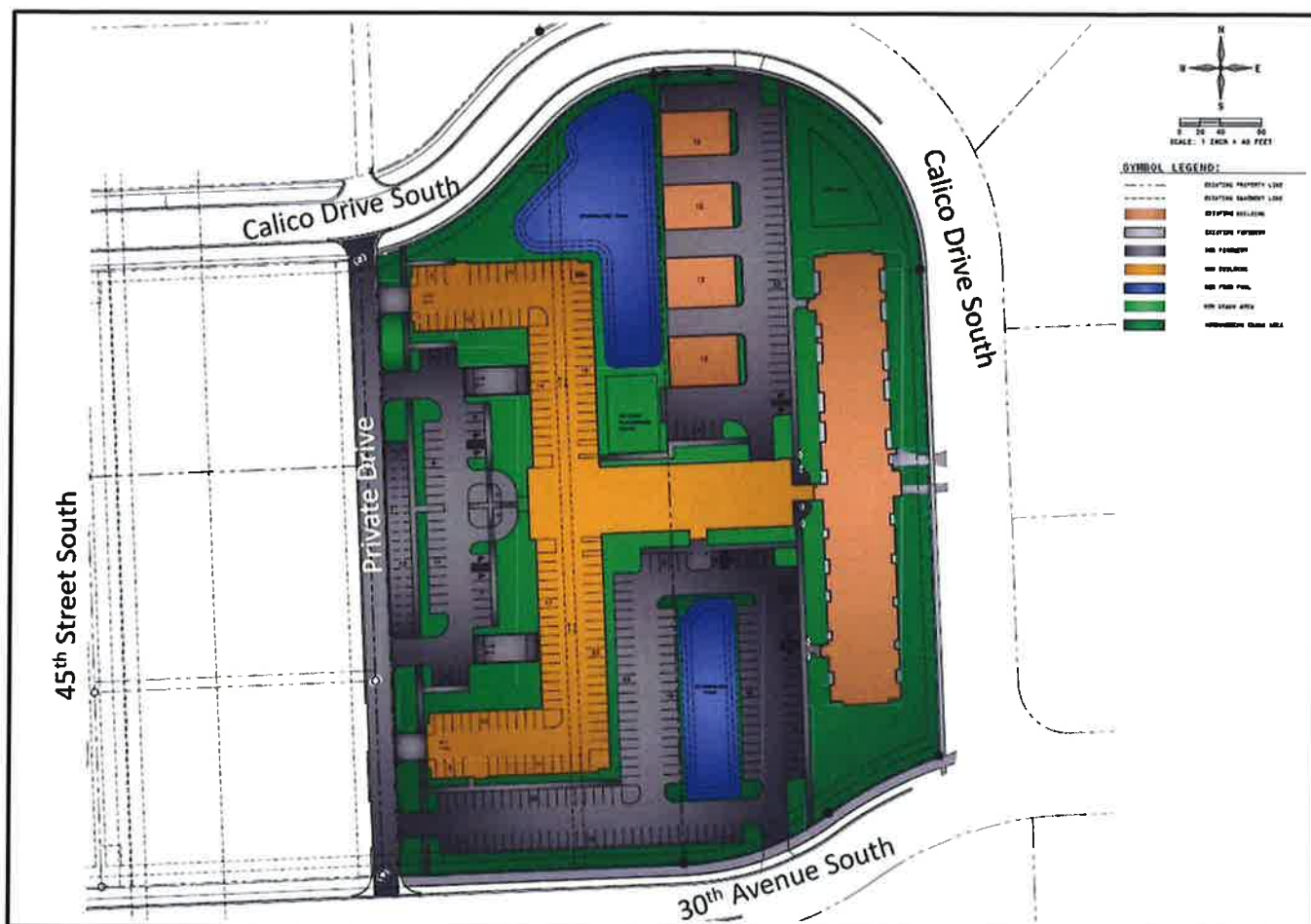
Pedestrian / Bicycle: An off-road multi-use trail is adjacent to the west side of the subject property, between the subject property and the 45th Street South right of way, which is a component of the metro area bikeways system.

Bus Route: MATBUS Route 14 runs along 42nd Street South, with a stop at 30th Avenue and 42nd Street South, approximately 0.32 mile east of the subject property.

Staff Analysis:

PUD Master Land Use Plan

The image below is a preliminary Master Land Use Plan submitted by the applicant (street names added for reference). The Master Land Use Plan shows the building envelope of the structures, parking and circulation, and open space.



The applicant proposes to construct a new 200+ unit multi-family apartment project, along with amenities spaces, and connect it to the existing 75 unit multi-family apartment building. The new apartment will have two levels of enclosed parking, thus allowing the ability to remove a portion of the existing surface parking garages on site, and giving the residents in the existing apartment building the ability to access their vehicles within the building footprint. The project will also 'go vertical' above the standard 3 to 4 story apartment building, which will allow for a very efficient use of the property and existing utilities within the area. Though several garages remain as part of the existing apartment building and the project includes surface as well as enclosed parking, the project provides open green space and water spaces. The new facility will add amenities spaces for the complex and a direct connection to the existing 75 Unit Multi-Family Apartment Building. Amenities to include: Fitness center, children's play area, daycare, volleyball court, hot tub, sauna, vending, yoga studio, underground/heated parking, car wash area, dog wash spa and package room. Additionally, the PUD would allow for future development of an on-site daycare.

Final PUD Plan Required Prior to Building Permit Approval

It should be noted that a PUD has two steps: a Master Land Use Plan and a Final Plan. This hearing does not include the Final Plan. The applicant must submit a PUD Final Plan for review by the Planning Commission when site plans and building permits are submitted. The Planning Commission must find the PUD final plan to be consistent with the PUD Master Land Use Plan prior to building permit approval. Note that the Planning Commission does not approve the actual building permit.

Zoning Change and PUD Overlay

The applicant has applied for a zoning map amendment and a PUD overlay in order to tailor development standards to the specifics of the proposed project. The property is currently two separate

lots, one zoned LC, Limited Commercial and the other zone MR-3, Multi-Dwelling Residential. For this Project, Planning staff recommended the applicant use the MR-3 zone as the base zone for the PUD. The modifications to the development standards of the underlying MR-3 zone are shown in the chart below. Development standards not included in the chart below will remain as the standard MR-3 requirements.

	Current LDC development standards for MR-3 zone	PUD modifications to MR-3 zone development standards
Allowed Uses	detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religious institutions, safety services, schools, and basic utilities.	<i>Add Daycare for greater than 13 children or adults</i>
Residential Density	24 du/ac	<i>Increase density to 32 du/ac</i>
Max. Height	60 ft	<i>Increase maximum building height to 85'</i>
Parking-Residential—Multi-dwelling	2.25 spaces per unit	<i>Reduce required parking ratio to 2.0 spaces per unit</i>
Parking for Daycare	1 space per 500 square feet of daycare	<i>Reduce to one space per 1,000 square feet of daycare</i>
Landscaping—Parking Lot Perimeter	Buffers shall be located between adjacent streets rights of way and off-street parking areas and all vehicular circulation areas within the front or streetside setback per Table 20-0705(D)(3)	<i>Added 10' landscape buffer between MR-3 lot and General Commercial lots to the west.</i>

Detailed Comment on PUD Modifications

Allowed Uses: The additional use of daycare accommodating more than 13 children is proposed to be added to the allowed uses. The applicant wishes to have the option of creating an onsite daycare.

Residential Density: The project proposes 270 dwelling units (combination of new and existing buildings) on an 8.67 acre property, yielding a density of approximately 32 dwelling units per acre. Planning staff is willing to support the increased density for this location, as one of the goals of the City's Go 2030 comprehensive plan is increased density in the appropriate locations.

Maximum Height: The applicant proposes to increase the maximum building height from 60 feet to 85 feet to accommodate the proposed multi-dwelling building. Planning staff supports this change as a way to increase the residential density of the site.

Parking—Residential Multi-Dwelling: Staff is willing to support the reduced parking ratio as the project provides a significant number of underground and tuck-under parking spaces, even though there is still some surface parking and a few garage spaces from the existing development are retained.

Page 8 Parking—Daycare: Staff is willing to support the proposed reduced parking—from 1 space per 500 square feet of daycare to 1 space per 1,000 square feet of daycare—for the future daycare as the daycare is expected to take approximately half of its students from within the development.

Additional Landscaping Buffer: The applicant intends to add a 10' landscape buffer along the west side parking area between the project site and General Commercial lots to the west, based on Planning staff's recommendation.

Rendering

A rendering of the proposed new apartment building, provided by the applicant, is attached. This is a conceptual graphic included for reference.

Plat

The plat will create combine two existing lots into a single lot.

Access

The lot will take access through an access and utility easement running north-south along with west side of the plat; from Calico Drive on the north and east sides of the plat, and form 30th Avenue South on the south side of the plat.

Master Land Use Plan: Article 20-0908(B)(a-e) of the LDC stipulates that the Planning Commission and Board of City Commissioners shall consider the following criteria in the review of any Master Land Use Plan.

- 1. The plan represents an improvement over what could have been accomplished through strict application of otherwise applicable base zoning district standards, based on the purpose and intent of this Land Development Code;**
The plan represents an improvement over what could have been accomplished through strict application of the base zoning district. It modifies certain development standards of the MR-3 zone and general development standards in order to provide a higher density housing than would be allowed under the MR-3 zoning. Increased density in the appropriate locations is a goal of the City's Go2030 comprehensive plan. The project provides a significant number of underground and tuck-under parking spaces, thereby making more efficient use of the property. The project provides on-site recreational amenities, open space, and has the option for an on-site daycare. **(Criteria Satisfied)**
- 2. The PUD Master Land Use Plan complies with the PUD standards of Section 20-0302;**
Staff has reviewed the PUD Master Land Use Plan and found that it complies with the PUD standards of Section 20-0302. The PUD modifies some standards of the MR-3 zone and general development standards as outlined in Section 20-0501 and noted above. All other standards and requirements as set forth in the LDC have been met. **(Criteria Satisfied)**
- 3. The City and other agencies will be able to provide necessary public services, facilities, and programs to serve the development proposed, at the time the property is developed;**
City staff and other applicable review agencies have reviewed this proposal. Staff finds no deficiencies in the ability to provide all of the necessary services to the site. The subject property fronts on an existing developed public right-of-way which provide access and public utilities to serve the property. **(Criteria Satisfied)**
- 4. The development is consistent with and implements the planning goals and objectives contained in the Area Plan, Comprehensive Plan and other adopted policy documents;**
The purpose of the LDC is to implement Fargo's Comprehensive Plan in a way that will protect the general health, safety, and welfare of the citizens. Staff finds that the proposed PUD is in keeping with Fargo's Comprehensive Plan. Particularly, the City's Go2030 Comprehensive Plan supports development within areas of the City that are already serviced with utilities and also supports developments with increased density. Staff finds this proposal is consistent with the purpose of the LDC, the Go2030 Comprehensive Plan, and other adopted policies of the City. **(Criteria Satisfied)**

Page 9 **5. The PUD Master Land Use Plan is consistent with sound planning practice and the development will promote the general welfare of the community.**

The PUD is consistent with sound planning practice and the development will promote the general welfare of the community by providing a residential housing option near recreational facilities, shopping, commercial uses, on a property that was bypassed by earlier development. **(Criteria Satisfied)**

Zoning --- Section 20-0906. F (1-4) of the LDC stipulates the following criteria be met before a zone change can be approved:

1. Is the requested zoning change justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map?

There is no error in the zoning map. The project involves the combination of two properties with different zonings—one is LC, Limited Commercial and one is MR-3, Multi-Dwelling Residential. As the base zone for the proposed PUD, Planning staff recommended the entire property be rezoned to MR-3, as there is no commercial component other than the possible daycare as part of this project.

(Criteria Satisfied)

2. Are the City and other agencies able to provide the necessary public services, facilities, and programs to serve the development allowed by the new zoning classifications at the time the property is developed?

Yes

(Criteria Satisfied)

3. Will the approval of the zoning change adversely affect the condition or value of the property in the vicinity?

Staff has no documentation or evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. Written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, Planning staff has received and responded to one inquiry. Staff finds that the approval of the zoning change will not adversely affect the condition or value of the property in the vicinity **(Criteria Satisfied)**

4. Is the proposed amendment consistent with the purpose of this LDC, the Growth Plan, and other adopted policies of the City?

The LDC states "This Land Development Code is intended to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo."

This project site is covered by the 2003 Growth Plan (southwest future land use plan), which designates the property as Medium/High Density Residential. The proposed zoning meets this land use designation.

The project meets several of the goals of infill development stated in the Go2030 Comprehensive Plan:

- the subject property is already served by supporting infrastructure;
- the project is within an area that is already developed and protected by a flood resiliency strategy;
- the project will increase the mix of uses and amenities in the area;
- the project brings high-density residential into close proximity with existing and future retail, restaurant, and service businesses and recreational amenities; and
- the project design includes parking strategies such as tuck-under and internal parking structures.

(Criteria Satisfied)

MINOR SUBDIVISION

The LDC stipulates that the following criteria are met before a minor plat can be approved:

1. **Section 20-0907.B.3 of the LDC stipulates that the Planning Commission recommend approval or denial of the application, based on whether it complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code. Section 20-0907.B.4 of the LDC further stipulates that a Minor Subdivision Plat shall not be approved unless it is located in a zoning district that allows the proposed development and complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.**

The property within this plat is currently zoned LC, Limited Commercial and MR-3, Multi-Dwelling Residential. The proposed zone change would rezone the entire property to MR-3 with a planned unit development (PUD) overlay to accommodate the proposed residential development. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, Planning staff has received and responded to one inquiry. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments. **(Criteria Satisfied)**

2. **Section 20-0907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.**

While this section of the LDC specifically addresses only major subdivision plats, staff believes it is important to note that any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles. **(Criteria Satisfied)**

NOTE ON CONTINGENT APPROVAL: The suggested motion below states that approval is contingent on final technical review of the plat, including the City Engineer's signature. This contingency is proposed as it came to staff's attention during the final review that the way the floodplain is depicted on the plat needs to be revised based on updated information provided by the City. The contingent motion below allows the City Commission to approve the plat at this time. Once the final technical review is complete and the City Engineer has signed the plat, then the City can then proceed with recording the plat, if approval is received as referenced below. Please note that all future permits, such as building permits, are on hold until the plat can be recorded. The contingent approval applies only to the subdivision plat.

Staff Recommendation:

Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and hereby waive the requirement to receive the rezoning Ordinance one week prior to the first reading and place the rezoning Ordinance on for first reading, and move to approve the proposed 1) Zoning Change from MR-3, Multi-Dwelling Residential and LC, Limited Commercial to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay; 2) PUD Master Land Use Plan; and 3) Minor Subdivision of **Metropolitan Park Third Addition**, contingent on final technical review of the plat, including the City Engineer's signature, as the proposal complies with the Go2030 Fargo Comprehensive Plan; Article 20-0908(B)(a-e); Section 20-0907 (B) and (C); Section 20-0906. F (1-4); and Standards of Article 20-06 of the LDC; 2003 Growth Plan; and all other applicable requirements of the LDC."

Planning Commission Recommendation: March 1st, 2022

At the March 1st, 2022 Planning Commission meeting, by a vote of 6-0 with two Commissioners absent and three Commission seats vacant, that Commission moved to accept the findings and recommendations of staff and to recommend approval to the City Commission of the proposed 1) Zoning Change from MR-3, Multi-Dwelling Residential and LC, Limited Commercial to MR-3, Multi-Dwelling Residential with a PUD, Planned Unit Development Overlay; 2) PUD Master Land Use Plan; and 3) Minor Subdivision of **Metropolitan Park Third Addition**, as the proposal complies with the Go2030 Fargo Comprehensive Plan; Article 20-0908(B)(a-e); Section 20-0907 (B) and (C); Section 20-0906. F (1-4); and Standards of Article 20-06 of the LDC; 2003 Growth Plan; and all other applicable requirements of the LDC."

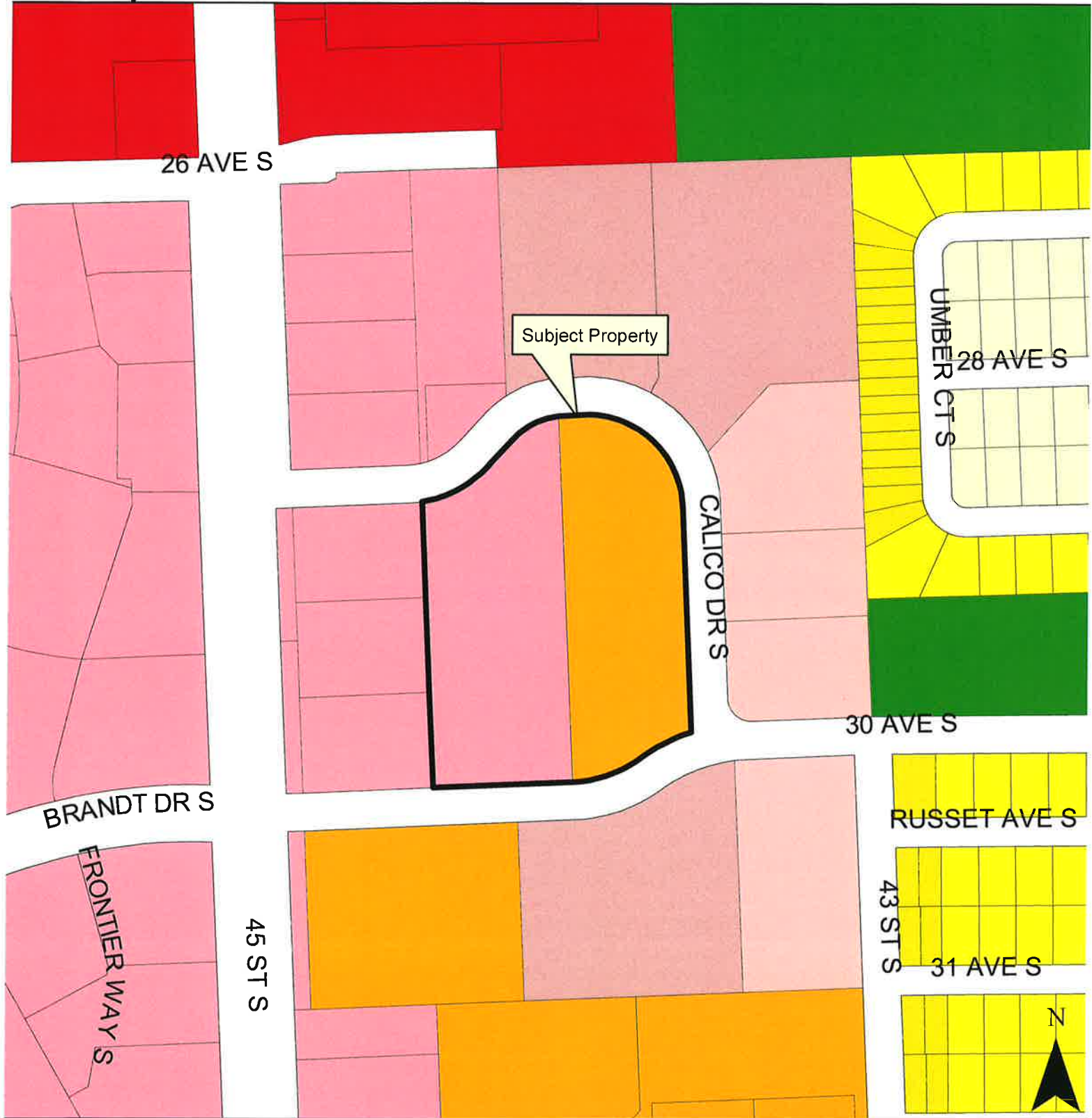
Attachments:

1. Zoning map
2. Location map
3. Preliminary plat

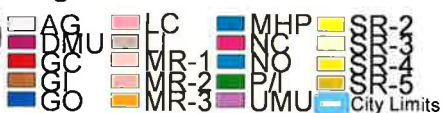
Plat (Minor), Zone Change (LC and MR-3 to MR-3 with a Planned Unit Development [PUD] Overlay), and PUD Master Land Use Plan

Metropolitan Park Third Addition

4400 Calico Drive S & 4455 30 Avenue S



Legend



300

Feet

Fargo Planning Commission
March 1, 2022

Plat (Minor), Zone Change (LC and MR-3 to MR-3 with a Planned Unit Development [PUD] Overlay), and PUD Master Land Use Plan

Metropolitan Park Third Addition

4400 Calico Drive S & 4455 30 Avenue S



METROPOLITAN PARK THIRD ADDITION

A REPLAT OF LOT 2, BLOCK 1 OF METROPOLITAN PARK SECOND ADDITION AND LOT 4, BLOCK 1 OF METROPOLITAN PARK SECOND ADDITION, ALL TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA (A MINOR SUBDIVISION)

CITY OF FARGO PLANNING COMMISSION APPROVAL
Approved by the City of Fargo Planning Commission this _____ day of _____, 20____

Rocky Schneider
Planning Commission Chair

State of North Dakota)
County of Cass)

On this _____ day of _____, 20____, before me, a notary public in and for said county, personally appeared Rocky Schneider, Planning Commission Chair, known to me to be the person described in and who executed the same as a free act and deed.

Notary Public

FARGO CITY COMMISSION APPROVAL

Approved by the Board of Commissioners and ordered filed this _____ day of _____, 20____

Timothy J. Mahoney
Mayor

Attest:
Steven Sprague, City Auditor

State of North Dakota)
County of Cass)

On this _____ day of _____, 20____, before me, a notary public in and for said county, personally appeared Timothy J. Mahoney, Mayor, and Steven Sprague, City Auditor, known to me to be the persons described in and who executed the same as a free act and deed.

Notary Public

CITY OF FARGO ENGINEERING DEPARTMENT APPROVAL

Approved by the City Engineer this _____ day of _____, 20____

Brenda E. Diering, P.E.
City Engineer

State of North Dakota)
County of Cass)

On this _____ day of _____, 20____, before me, a notary public in and for said county, personally appeared Brenda E. Diering, City Engineer, known to me to be the person described in and who executed the same as a free act and deed.

Notary Public

OWNER'S CERTIFICATE
KNOW ALL PERSONS BY THESE PRESENTS, That JPR Investments LLC #13A, a North Dakota limited liability company, is the owner of the above described parcel of land located in the West Half of the Southwest Quarter of Section 22, Township 159 North, Range 48 West of the Fifth Principal Meridian, Cass County, North Dakota, being more particularly described as follows:

Lot 2, Block 1 of METROPOLITAN PARK ADDITION, according to the recorded plat thereof on file and of record in the Office of the County Recorder, Cass County, North Dakota.

AND
Lot 4, Block 1 of METROPOLITAN PARK SECOND ADDITION, according to the recorded plat thereof on file and of record in the Office of the County Recorder, Cass County, North Dakota.

Containing 8.87 acres, more or less.
Said owners of the above described property, have caused the same to be surveyed and platted as METROPOLITAN PARK THIRD ADDITION to the City of Fargo, do hereby dedicate to the public, for public use, the Utility Easement as shown on this plat.

OWNER:

JPR Investments LLC #13A

Claim of Interest in:
Lot 4, Block 1 of METROPOLITAN SECOND PARK ADDITION, according to the recorded plat thereof on file and of record in the Office of the County Recorder, Cass County, North Dakota.

James P. Roemer, President

State of North Dakota)
County of Cass)

On this 20th day of February, 2022, appeared before me, James P. Roemer, President, JPR Investments LLC #13A, North Dakota Limited Liability Company, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that they executed the same as their own free act and deed.



OWNER:

Metropolitan Apartments, LLC

Claim:
Lot 2, Block 1 of METROPOLITAN PARK ADDITION, according to the recorded plat thereof on file and of record in the Office of the County Recorder, Cass County, North Dakota.

State of North Dakota)
County of Cass)

On this 16th day of February, 2022, appeared before me, _____, a Notary Public in and for said county, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that they executed the same as their own free act and deed.

NOTARY PUBLIC

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT
I, Jason Ness, Professional Land Surveyor under the laws of the State of North Dakota, do hereby certify that this plat is a true and correct representation of the survey of said subdivision; that the monuments for the guidance of future surveys have been located or placed in the ground as shown.

Dated this 16th day of February, 2022.

Jason Ness, PLS

Professional Land Surveyor

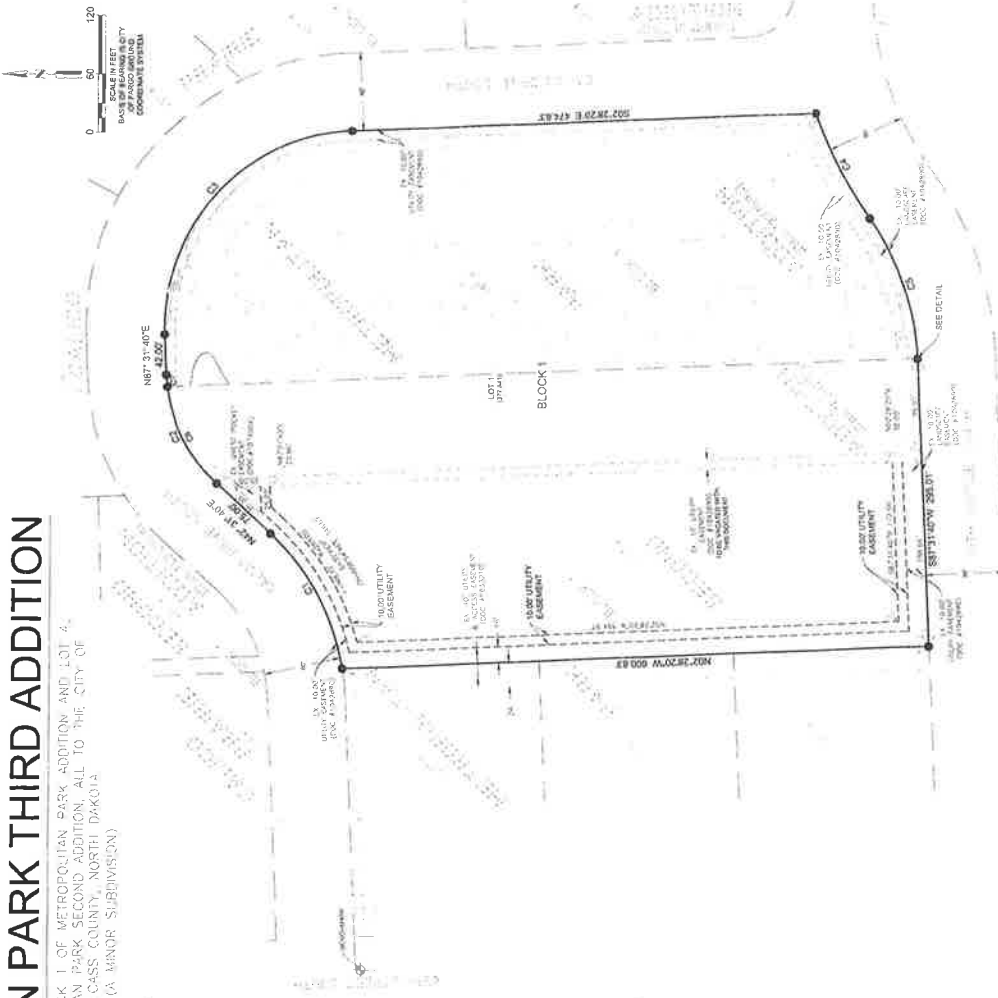
Registration No. LP-0004

State of North Dakota)
County of Cass)

On this 16th day of February, 2022, appeared before me, Jason Ness, known to me to be the person whose name is subscribed to the above certificate and did acknowledge to me that he executed the same as his own free act and deed.

Jason Ness, Notary Public

State of North Dakota)
County of Cass)



MEAD & HUNT
Phone: 701-565-5450
meadhunt.com
PROJECT NO. 2447100-211842-01
SHEET 11 OF 11

LEGEND

1. GROUND DISTANCES ARE SHOWN AND ARE IN TERMS OF U.S. SURVEY FEET.

2. PART OF THIS PLAT FALLS IN THE FLOODPLAIN ZONE NE ACCORDING TO THE FEMA FIRM MAP 38077 COTTES. THE BASE FLOOD ELEVATION IN THIS AREA IS 504.7' NAVD83. SHOWN AS DERIVED FROM FIELD DATA COLLECTED OCTOBER 11, 2021.

NOTICE

1. GROUND DISTANCES ARE SHOWN AND ARE IN TERMS OF U.S. SURVEY FEET.

2. PART OF THIS PLAT FALLS IN THE FLOODPLAIN ZONE NE ACCORDING TO THE FEMA FIRM MAP 38077 COTTES. THE BASE FLOOD ELEVATION IN THIS AREA IS 504.7' NAVD83. SHOWN AS DERIVED FROM FIELD DATA COLLECTED OCTOBER 11, 2021.

CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
C1	159.23	240.00	0.347227	N67°30'E	156.43
C2	125.86	100.00	0.637027	S60°10'W	122.46
C3	314.16	200.00	0.941607	S47°22'22"E	262.94
C4	122.84	416.00	0.973574	N62°31'50"E	121.00
C5	152.17	280.00	0.637172	N74°15'57"E	148.87
C6	113.52	160.00	0.607286	S65°11'10"W	111.16
C7	12.14	100.00	0.042254	S89°21'10"W	12.14

DETAIL 1" = 10'

1. SOUTHEAST FLANKER BOLT OF HYDRANT LOCATED AT THE INTERSECTION OF CALICO DRIVE SOUTH AND 4TH STREET SOUTH. ELEVATION = 505.86 (NAVD83)

MBN
MECHANICAL • ELECTRICAL • CIVIL
903 7TH ST. N. SUITE 200
FARGO, ND 58102
PHONE: 701.785.1111
FAX: 701.785.1111

ROERS COMPANIES
METRO APARTMENT
COMPLEX

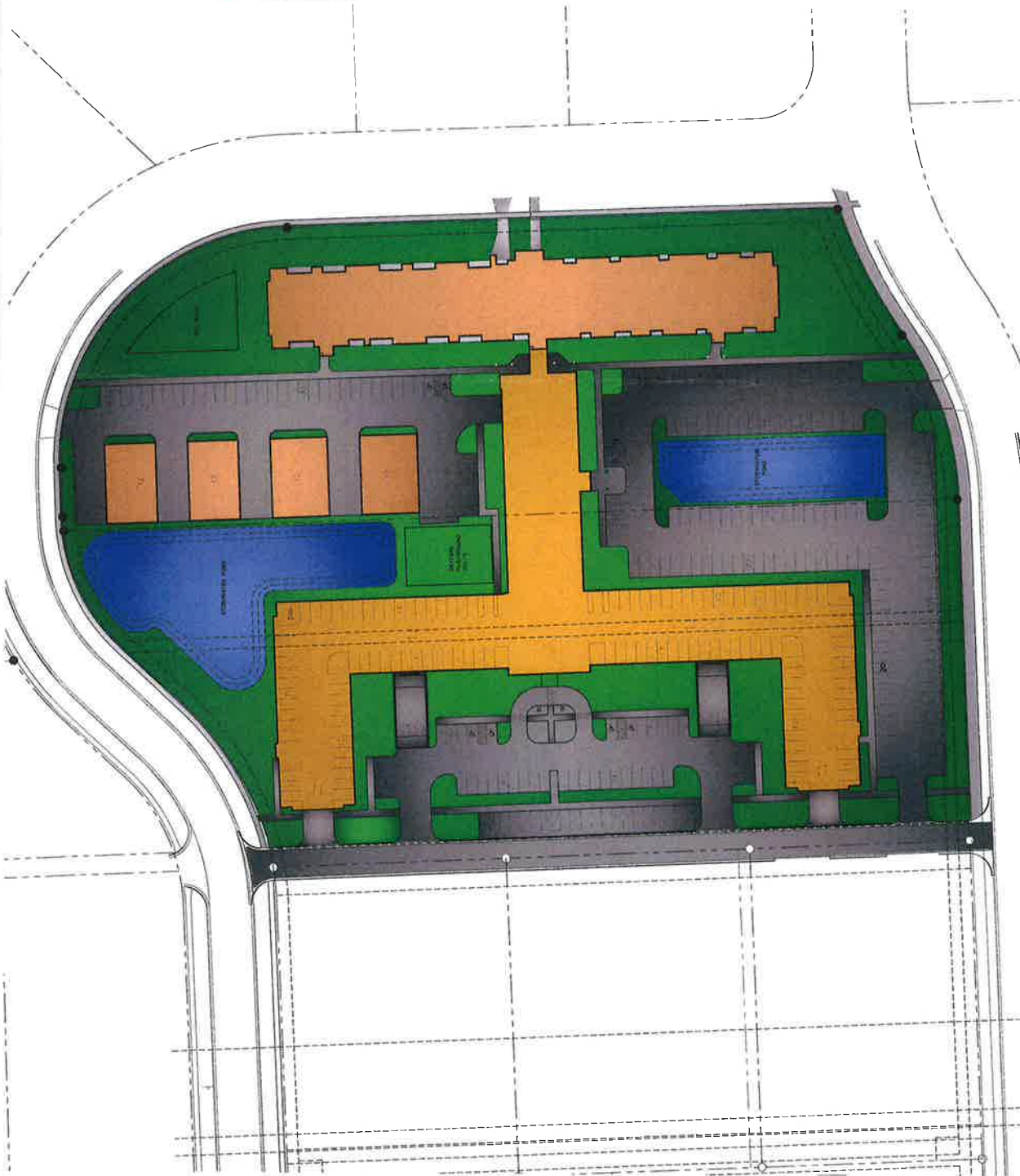
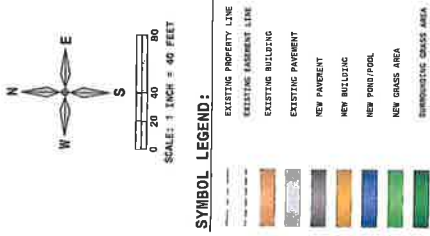
FARGO, NORTH DAKOTA

NOT FOR CONSTRUCTION

WEB JOB #: 21.026 DATE: 2.27.21

C1.0

PUD SITE PLAN RENDERING





SCALE: 1" = 40' FEET
0 20 40 60 80

SYMBOL LEGEND:

- EXISTING PROPERTY LINE
- EXISTING EASEMENT LINE
- OPEN SPACE
- IMPERVIOUS SURFACE WITHIN OPEN SPACE

CALCULATIONS:

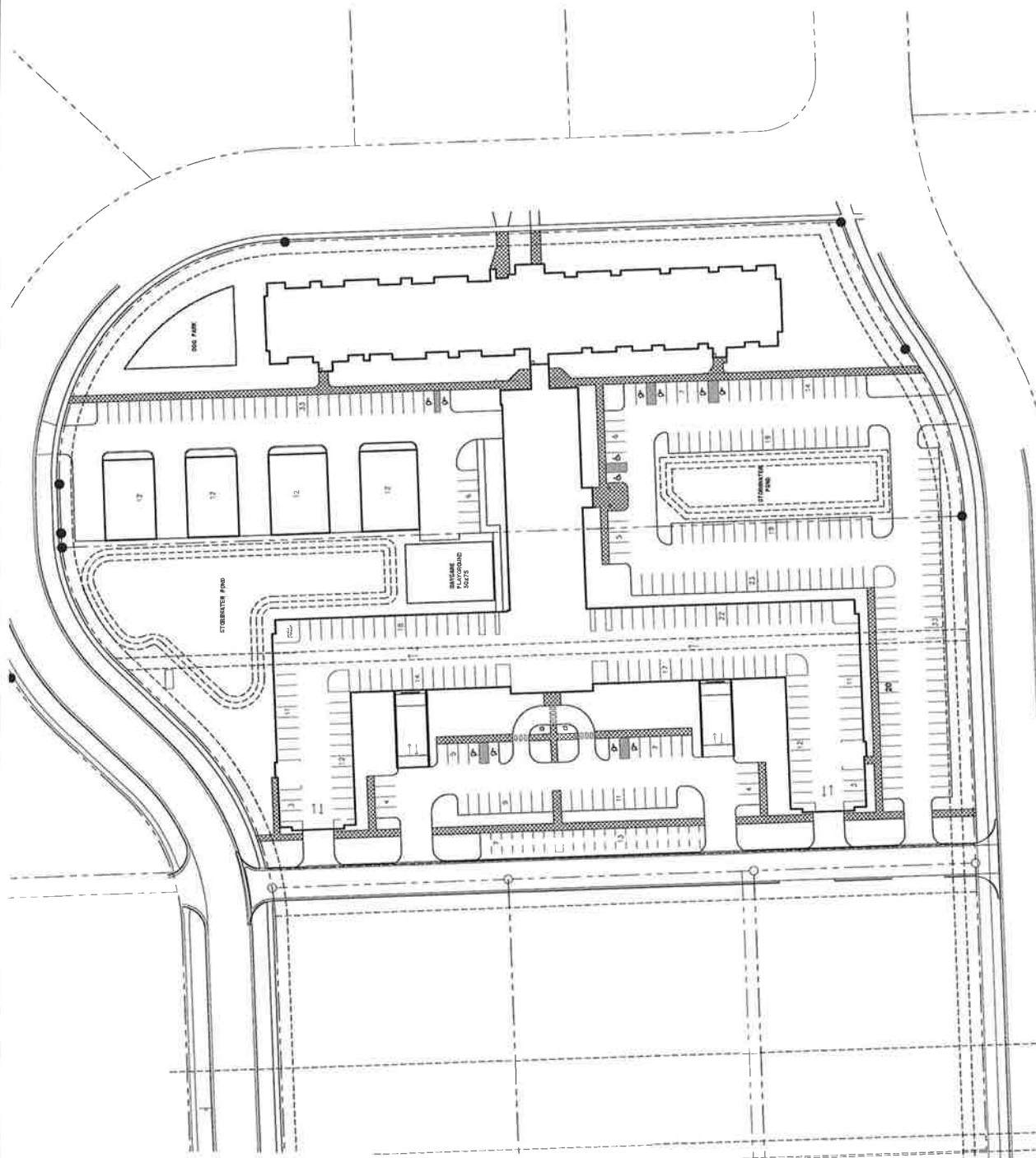
TOTAL LOT - 377,832 SQFT (8.67 ACRES)
EXISTING IMPERVIOUS SURFACE (SQ. FT.)
PERCENT OPEN AREA - 62.62% (27% IMPERVIOUS)
EXISTING BUILDING - 29,331 SQFT
NEW BUILDING - 59,774 SQFT
PERCENT TOTAL LOT COVERAGE - 23.85%
TOTAL SQ. FT. NEW BUILDING - 208,192

PARKING STALLS
PARKING LEVEL B
PARKING LEVEL A
EXISTING GARAGE
EXISTING SURFACE
NEW SURFACE
FUTURE
TOTAL PROVIDED
SIS (S. METAL SOUND)

150 208 UNDER COVER
125 44
41 225 SURFACE PARK
150 20
20
348 STALLS REQUIRED (279 + 328)

EXISTING UNITS
NEW UNITS
TOTAL UNITS
UNIT DENSITY

157 2ND 3RD 4TH 5TH TOTAL
1 BED 0 0 0 0 0 0
2 BED 0 0 0 0 0 0
3 BED 0 0 0 0 0 0
TOTAL 0 0 0 0 0 0



PUD SITE PLAN

ROERS COMPANIES
METRO APARTMENT
COMPLEX

FARGO, NORTH DAKOTA

NOT FOR CONSTRUCTION

REV. 008 4/ 21/2008 DATE: 2/22/08

C2.0



METROPOLITAN PARK 3rd ADDITION

Updated February 23rd, 2022

DEVELOPERS STATEMENT OF INTENT:

Goldmark Design and Roers Development is proposing this Infill/Backfill Development on 45th Street in south Fargo. In an effort to increase density within the existing Multi Family and future Mixed Use Development, and in addition to lessening the overall impact to existing public utility infrastructure and creating a more walk-able community, we are proposing to make the following modifications to the MR-3 Zoning District via PUD (Planned Unit Development). The increased density of developments is a goal of the City of Fargo's 2030 Comp Plan.

Increase Units per Acre from 24 to 32. We will achieve this by parking a majority of the required stalls underground and tucked under the new building. The project will also 'go vertical' above the standard 3 to 4 story apartment building, which will allow for a very efficient use of the property and existing utilities within the area.

Minimum Open Space Requirement of 30%, thus making for a dense site, yet keeping ample green space for outdoor use.

Increase Max Height of Building from 60' to 85'

Parking Ratio: Reduce the Parking Ratio from 2.25 Parking Spaces/Unit to 2.00 Parking Spaces/Unit. The design team believes this ratio to be sufficient, given the high density of the complex, walkability to neighboring properties and business, and various amenities being added to the complex thus reducing the need to leave the site for such activities.

Allow for a Daycare use to be allowed in the MR Zoning District/PUD. The developer plans to construct a 10,000sf daycare center on the 1st and 2nd floor of the building (in the link). The daycare provider is anticipating 50% of their 100 students will come from the apartment complex. For this reason, we would also propose to modify the parking requirements for a daycare facility use from 1/500sf to 1/1000sf.

Eliminate the need for added Landscaping on the Existing MR-3 Zoned and Built Lot

PROJECT SCOPE:

Construct a new 200+ Unit Multi-Family Apartment Project, within this Mixed Use Development. The new facility will add amenities spaces for the complex and a direct connection to the existing 75 Unit Multi-Family Apartment Building. Amenities to include: Fitness center, children's play area, daycare, volleyball court, hot tub, sauna, vending, yoga studio, underground/heated parking, car wash area, dog wash spa and package room

The new Multi-Family Apartment will have two levels of enclosed parking, thus allowing the ability to remove a portion of the existing surface parking garages on site, and thus giving the residents in the existing apartment building the ability to access their vehicles within the building footprint.

A 10' buffer will be added with landscaping along the west edge of the parking lot, between the MF Building and the commercial lots, to reduce the noise/light/activity generated via the adjacent commercial properties. There shall be room on the west side of the buffer for future parking of the MF complex, if needed.

METROPOLITAN PARK 3rd ADDITION PUD NARRATIVE
Updated February 23rd, 2022

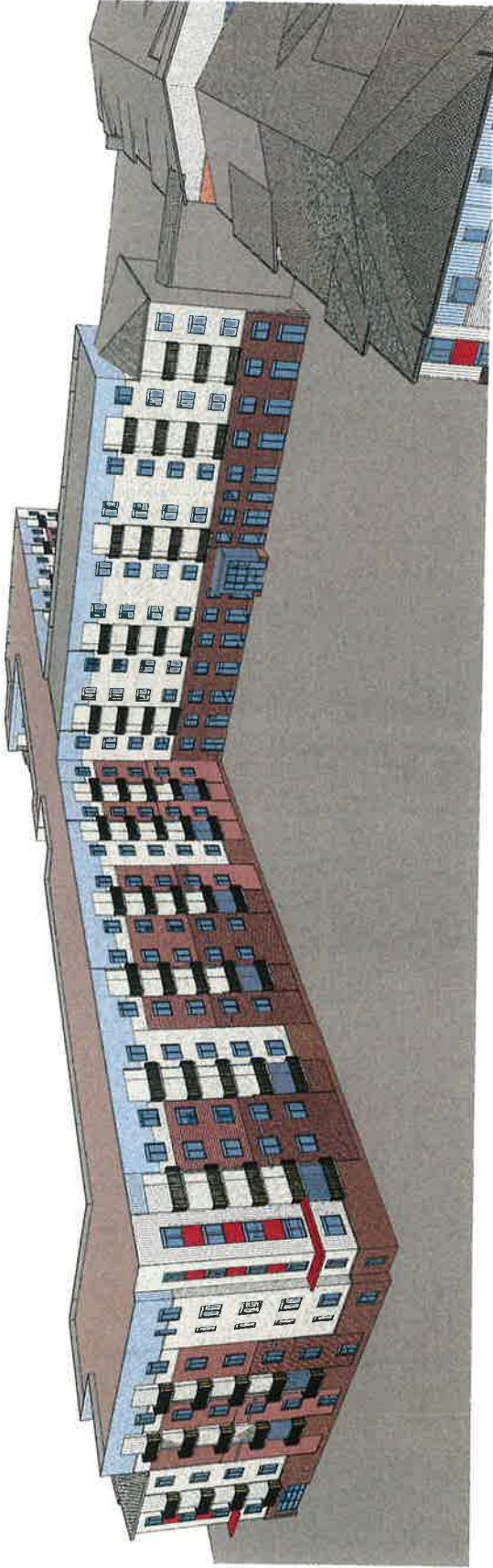
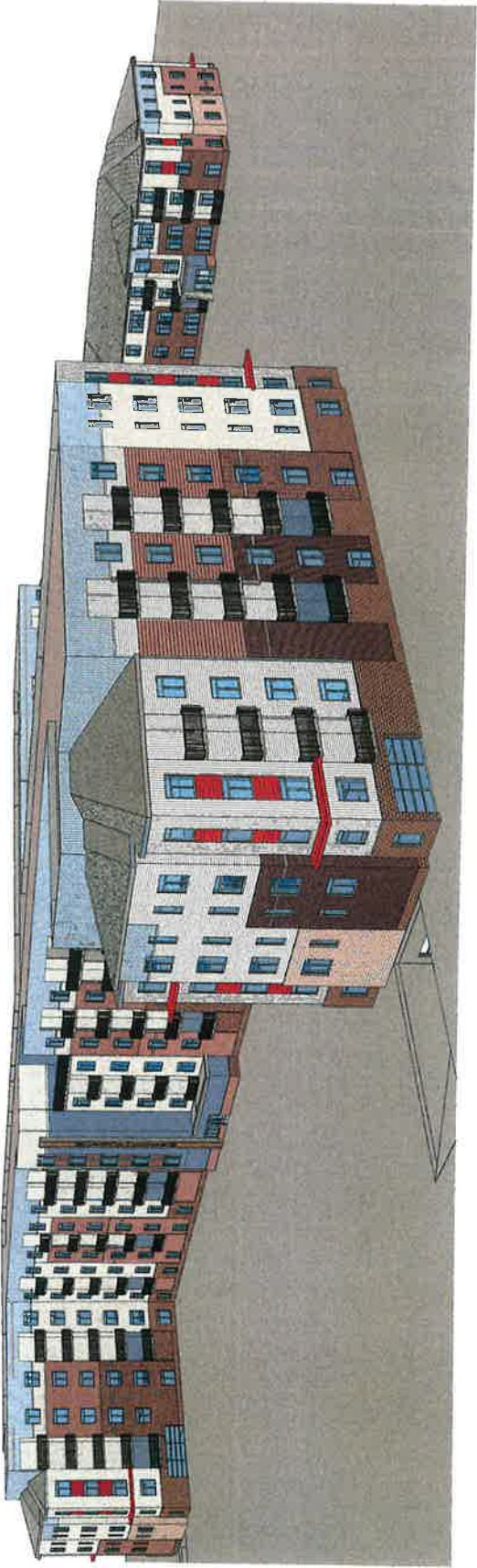
PROJECT NARRATIVE:

Construct a new 200+ Unit Multi-Family Apartment Project, along with amenities spaces, and connect it to the existing 75 Unit Multi-Family Apartment Building.

The new Apartment will have two levels of enclosed parking, thus allowing the ability to remove a portion of the existing surface parking garages on site, and giving the residents in the existing apartment building the ability to access their vehicles within the building footprint.

The PUD will include a site plan for the development that is incorporated here by reference. The PUD will, generally, apply the MR-3 development standards, except as otherwise provided below:

	Current LDC development standards for MR-3 zone	<i>PUD modifications to MR-3 zone development standards</i>	NOTES
Allowed Uses	detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religious institutions, safety services, schools, and basic utilities.	<i>Daycare Facility of 10,000 sf for more than 13 children</i>	Request to reduce parking requirement from 1/500 to 1/1000
Residential Density	24 du/ac	<i>32 du/ac</i>	<i>High Density Dev.</i>
Max. Height	60 ft	<i>85'</i>	
Parking-Residential—Multi-dwelling	2.25 spaces per unit	<i>2.00 spaces per unit</i>	Walk-ability to commercial and office space and amenities
Parking--Retail	1 space per 300 SF	<i>NA</i>	
Landscaping—Parking Lot Perimeter	Buffers shall be located between adjacent streets rights of way and off-street parking areas and all vehicular circulation areas within the front or streetside setback per Table 20-0705(D)(3)	<i>Added 10' landscape buffer between MR-3 lot and General Commercial lots to the west.</i>	



PROJECT: METRO REINVENT
REVISIONS: 1.01 01/15/2021
DATE: 1/15/2021
DRAWN BY: JMM
CHECKED BY: NGV
DOCUMENT PHASE: SCHEMATIC DESIGN
SHEET CONTENTS: 3D VIEW

Enter address here

SHEET
A2.4

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

3202

AN ORDINANCE ESTABLISHING A
PLANNED UNIT DEVELOPMENT MASTER LAND USE PLAN
AND REZONING CERTAIN PARCELS OF LAND
LYING IN METROPOLITAN PARK THIRD ADDITION
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

WHEREAS, the Fargo Planning Commission and the Board of City Commissioners of the City of Fargo have held hearings pursuant to published notice to consider the rezoning of certain parcels of land lying in the proposed Metropolitan Park Third Addition and a Planned Unit Development Master Land Use Plan to the City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning and a Planned Unit Development Master Land Use Plan request on March 1, 2022; and,

WHEREAS, the rezoning changes and the Planned Unit Development Master Land Use Plan were approved by the City Commission on April 4, 2022,

NOW, THEREFORE,

Be It Ordained by the Board of City Commissioners of the City of Fargo:

Section 1. The following described property:

All of Metropolitan Park Third Addition to the city of Fargo, Cass County, North Dakota, is hereby rezoned from "LC", Limited Commercial, District and "MR-3", Multi-Dwelling Residential, District to "MR-3", Multi-Dwelling Residential, District.

Section 2. There is hereby established a Planned Unit Development Master Land Use Plan on all of the property located in Metropolitan Park Third Addition, to the City of Fargo, Cass County, North Dakota as set forth herein and, therefore, the standards for development for the "MR-3" zoning district shall hereby be enacted as follows:

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

	Current LDC development standards for MR-3 zone	<i>PUD modifications to MR-3 zone development standards</i>
Allowed Uses	detached houses, attached houses, duplexes, multi-dwelling structures, daycare centers up to 12 children or adults, group living, parks and open space, religious institutions, safety services, schools, and basic utilities.	<i>Add Daycare for greater than 13 children or adults</i>
Residential Density	24 du/ac	<i>Increase density to 32 du/ac</i>
Max. Height	60 feet	<i>Increase maximum building height to 85 feet</i>
Parking- Residential—Multi-dwelling	2.25 spaces per unit	<i>Reduce required parking ratio to 2.0 spaces per unit</i>
Parking for Daycare	1 space per 500 square feet of daycare	<i>Reduce to one space per 1,000 square feet of daycare</i>
Landscaping— Parking Lot Perimeter	Buffers shall be located between adjacent streets rights of way and off-street parking areas and all vehicular circulation areas within the front or streetside setback per Table 20-0705(D)(3)	<i>Add 10 foot landscape buffer between MR-3 lot and General Commercial lots to the west.</i>

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1 In all other respects, development on said property shall be subject to the development standards for
2 the "MR-3" zoning district.

3 Section 3. The City Auditor is hereby directed to amend the zoning map now on file in his
4 office so as to conform with and carry out the provisions of this ordinance.

5 Section 4. This ordinance shall be in full force and effect from and after its passage and
6 approval.
7
8
9

10 (SEAL)

Timothy J. Mahoney, M.D., Mayor

11 Attest:

12
13 _____
Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

326

City of Fargo Staff Report			
Title:	Rocking Horse Farm Sixth Addition	Date: Updated:	1/26/2022 3/31/2022
Location:	5801 52 nd Avenue South	Staff Contact:	Donald Kress, planning coordinator
Legal Description:	Part of the Southeast Quarter of Section 32, Township 139 North, Range 49 West		
Owner(s)/Applicant:	Rocking Horse Farm, LLC; Jetland Properties, LLC / Houston Engineering	Engineer:	Houston Engineering
Entitlements Requested:	Zoning Change (from AG, Agricultural to P/I, Public/Institutional); Growth Plan Amendment (amend the 2003 Growth Plan from "Commercial" to "Public and Institutional" for the subject property) Major Subdivision (plat of Rocking Horse Farms Sixth Addition , a plat of part of the Southeast Quarter of Section 32, Township 139 North, Range 49 West)		
Status:	City Commission Public Hearing: April 4th, 2022		

Existing	Proposed
Land Use: Undeveloped	Land Use: Public elementary school
Zoning: AG, Agricultural	Zoning: P/I, Public/Institutional
Uses Allowed: AG – Agricultural. Allows detached houses, parks and open space, safety services, basic utilities, and crop production.	Uses Allowed: P/I – Public and Institutional. Allows colleges, community service, daycare centers of unlimited size, detention facilities, health care facilities, parks and open space, religious institutions, safety services, schools, offices, commercial parking, outdoor recreation and entertainment, industrial service, manufacturing and production, warehouse and freight movement, waste related use, agriculture, aviation, surface transportation, and major entertainment events.
Maximum Density Allowed: AG allows a maximum of 1 dwelling unit per 10 acres	Maximum Building Coverage Allowed: P/I has no maximum building coverage.

Proposal:

The applicant requests three entitlements:

1. A **zoning change** from AG, Agricultural to P/I, Public/Institutional;
2. A **growth plan amendment** to amend the 2003 Growth Plan from "Commercial" to "Public and Institutional" for the subject property; and
3. A **major subdivision** to be known as **Rocking Horse Farm Sixth Addition**, a plat of part of the Southeast Quarter of Section 32, Township 139 North, Range 49 West

This project was reviewed by the City's Planning and Development, Engineering, Public Works, and Fire Departments ("staff"), whose comments are included in this report.

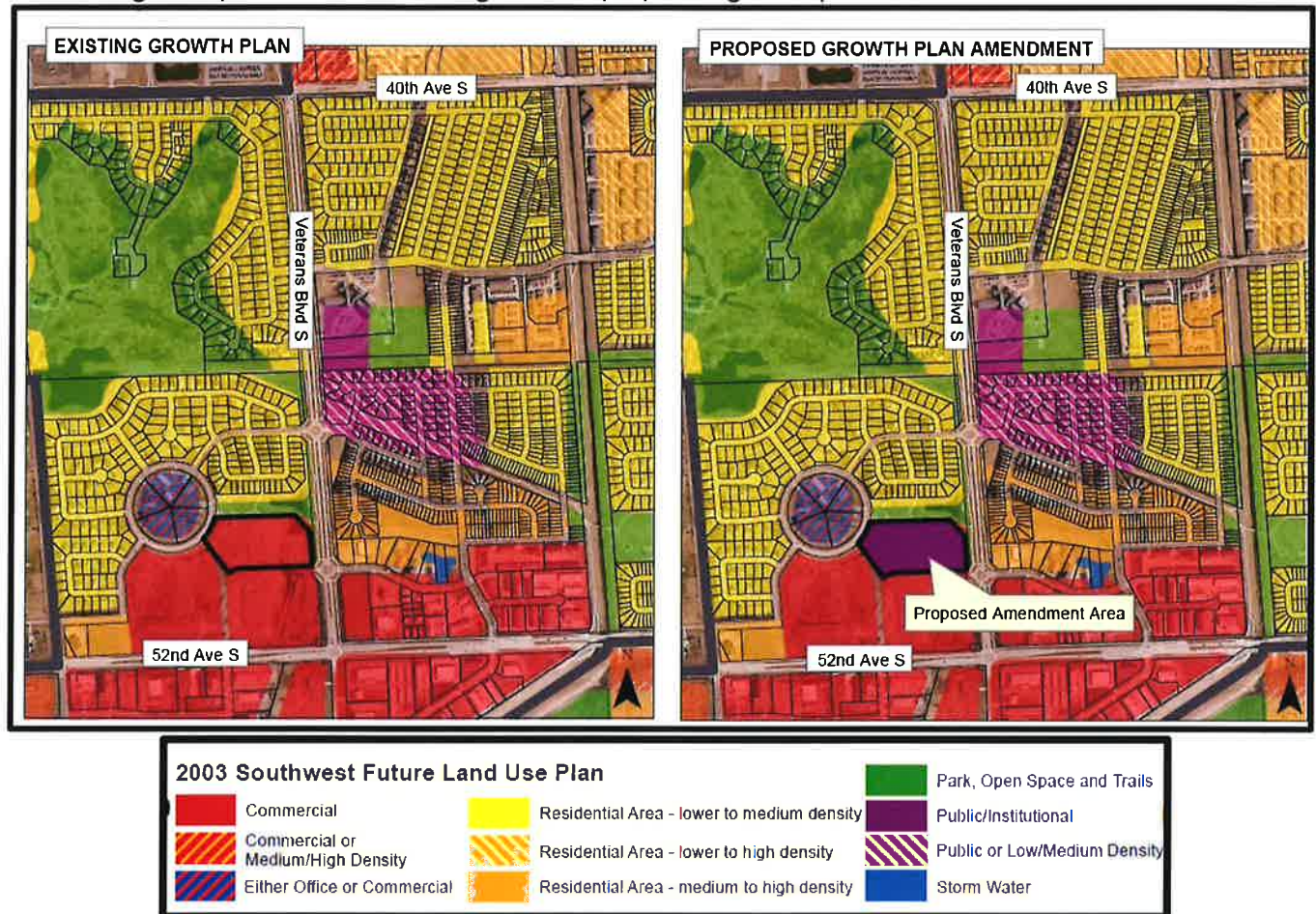
Surrounding Land Uses and Zoning Districts:

- North: P/I, Public and Institutional; Fargo Park District Park;
- East: across Veterans Boulevard is GC, General Commercial with commercial uses and SR-4, Single-Dwelling Residential with twinhomes;

- South: AG; undeveloped (property between the subject property and 52nd Avenue South);;
- West: AG; Undeveloped (property between 59th Street dedicated by this plat and 61st Street South) and GC, General Commercial with Commercial uses and undeveloped (property west across Rocking Horse Circle South from the subject property).

Area Plans:

The subject property is located within the 2003 Southwest Future Land Use Plan. This plan designates the subject property as "Commercial." This property is undeveloped and currently zoned AG, Agricultural. The applicant proposes to amend this plan to designate the subject property as "Public and Institutional," which includes the proposed P/I, Public/Institutional zoning and is the appropriate land use designation and zoning for a public school. Findings for the proposed growth plan amendment are below.



Context:

Schools: The subject property is located within the West Fargo School District, specifically within the Independence Elementary, Liberty Middle and Sheyenne High schools.

Neighborhood: The subject property is located within the Osgood neighborhood.

Parks: Rocking Horse Park, 4848 Bluebell Loop South, is located adjacent to the north of the subject property, and provides the amenities of a 2-5 year old playground, a 5-12 year old playground, walking trail, landscaping and a few covered picnic tables.

Pedestrian / Bicycle: The right of way of proposed 51st Street South is intended to accommodate a multi-use trail. This trail will connect with the existing trail that runs through Rocking Horse Park, adjacent to the north of the subject property, and to the multi-use trail within the public right of way of Veterans Boulevard.

Bus Route: The subject property is not near a MATBUS route.

Staff Analysis:

PLAT NAME HISTORY NOTE: A minor subdivision titled "Rocking Horse Farm Sixth Addition" was submitted to the Planning Department in July, 2018. This was a proposed subdivision of a different area of Rocking Horse Farm than the current plat. That plat was never heard by the Planning Commission and was withdrawn by the applicant. Thus, the name "Rocking Horse Farm Sixth Addition" can be used for this plat.

PLAT

The subdivision plat creates a single lot of approximately 10 acres in area intended for development of a West Fargo Public Schools elementary school. The plat also dedicates public right of way for 51st Avenue South, 59th Street South, and Rocking Horse Road South.

ZONE CHANGE

The property is currently undeveloped and zoned AG, Agricultural. The proposed zoning of P/I, Public/Institutional, is the appropriate zoning for a public elementary school and is consistent with the proposed land use designation of Public and Institutional.

GROWTH PLAN AMENDMENT:

A public school was not originally contemplated in the development plan for the Rocking Horse Farm area. The Rocking Horse Farm area included designated land uses of Commercial and various densities of Residential. A growth plan amendment to Public and Institutional, which is the appropriate land use designation for a public school, provides a way to evaluate the suitability of this location for such a school. Findings for the growth plan amendment are below.

GROWTH PLAN AMENDMENT NEIGHBORHOOD MEETING

Pursuant to Land Development Code Section 20-0905.E, a public open house is required for a proposed growth plan amendment. The intent of this open house is to allow residents and property owners in the area an opportunity to meet with the developer to review and comment on this proposed growth plan amendment. This meeting was held on Thursday, January 20th, 2022 at Osgood Elementary School media center. Property owners within a 300 foot radius of the subject property were notified by mail of this meeting. No residents or property owners attended this meeting.

Growth Plan Evaluation Criteria: Section 20-0905(H) of the LDC states that the Planning Commission and City Commission shall consider whether the Growth Plan is consistent with and serves to implement adopted plans and policies of the city.

The 2007 Growth Plan sets forth the following criteria that should be used to evaluate any proposed growth plan amendment, including amendments to previous growth plans:

1. **Is the proposed change consistent with surrounding land uses, both existing and future?**
The plat subdivides an approximately 10-acre lot out of a larger 51-acre undeveloped parcel that is surrounded by commercial, public park, and single-dwelling residential land uses. The West Fargo Public School District has determined another elementary school is necessary to serve the growing student population of that district. This location meets their criteria of location and accessibility. At this time, there is no definite plan for development of the remaining approximately 41 acres of the undeveloped parcel; this area is designated for commercial land uses and current zoned AG, Agricultural pending a development plan.
(Criteria Satisfied)
2. **Does the proposed change involve a street alignment or connection? If so, how does this change affect the transportation system and the land uses in the surrounding area, both existing and future.**
The plat dedicates public rights of way that connects to the existing Veterans Boulevard, 52nd Avenue South, and Rocking Horse Circle South, as directed by the City Engineer. These rights of

way will provide access to the proposed elementary school as well as the remaining undeveloped property to the south of the school.

(Criteria Satisfied)

- 3. How does the proposed change work with the larger area in terms of land use balance and other factors that could influence the proposed change? Are there physical features or developments in the vicinity that make the change positive or negative for the City and the area in general?**

A portion of the city of Fargo is within the West Fargo Public School District, rather than the Fargo Public School District, which results from a change in the way school boundaries are determined by state statute that occurred in the 1980's. Approximately 32% of all West Fargo Public School students reside within the Fargo city limits. For all grades, just under 4,000 West Fargo students have a Fargo address. Currently three elementary schools and one middle school of the West Fargo district are located within the city of Fargo. The growth in the West Fargo's Freedom Elementary and Independence Elementary attendance areas is producing more students than those building can accommodate. The solution to solve this issue is to create more classrooms for those students. By adding a school in the Rocking Horse Farm neighborhood, the West Fargo District will be able to adjust attendance boundaries so that Freedom and Independence Schools have attendance areas that do not overfill those schools. The subject property is undeveloped. Though a public school was not a use originally contemplated in the Rocking Horse Farms development, such a school would not be out of place in this location which has considerable residential development to the north, northeast, and west. There are no uses surrounding this area that would have negative impacts on a school here.

(Criteria Satisfied)

- 4. How does the proposed change impact the long term sustainability of the city? Does the change contribute to or detract from the walkability and livability of the city?**

Due to the growth of the student population within the West Fargo district, an additional elementary school is required to serve this area. The proposed location meets the district's qualifications of site size—a minimum of 10 acres—and accessibility from multiple entry points—this site is accessible from the west, east, and south. The West Fargo district emphasizes neighborhood schools; an additional such school would contribute to the walkability and livability of the city and relieve the student pressure on Freedom and Independence schools.

(Criteria Satisfied)

NOTE: Some information in the above section provided by West Fargo Public Schools.

Zoning --- Section 20-906. F (1-4) of the LDC stipulates the following criteria be met before a zone change can be approved:

- 1. Is the requested zoning change justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map?**

There is no error in the zoning map. The subject property is currently unplatted and zone AG, Agricultural. The property must be rezoned in order to accommodate any development other than uses allowed in the AG zone. The demand for an elementary school in this area has led the West Fargo Public School District to propose a school in this location. The Public/Institutional zone is the appropriate zone for a public elementary school.

(Criteria Satisfied)

- 2. Are the City and other agencies able to provide the necessary public services, facilities, and programs to serve the development allowed by the new zoning classifications at the time the property is developed?**

Yes. The project site fronts on public rights of way, and the plat will dedicate additional public rights of way, that provide access and utility services.

(Criteria Satisfied)

3. Will the approval of the zoning change adversely affect the condition or value of the property in the vicinity?

Staff has no documentation or evidence to suggest that the approval of this zoning change would adversely affect the condition or value of the property in the vicinity. Written notice of the proposal was sent to all property owners within 300 feet of the subject property. To date, Planning staff has received no public comment. Staff finds that the approval of the zoning change will not adversely affect the condition or value of the property in the vicinity **(Criteria Satisfied)**

4. Is the proposed amendment consistent with the purpose of this LDC, the Growth Plan, and other adopted policies of the City?

The LDC states "This Land Development Code is intended to implement Fargo's Comprehensive Plan and related policies in a manner that protects the health, safety, and general welfare of the citizens of Fargo."

The project meets some of the goals of infill development stated in the Go2030 Comprehensive Plan:

- the subject property is already served by supporting infrastructure;
- the project will increase the mix of uses and amenities in the area; and,
- the project includes connections to existing multi-use trails, which will increase walkability.

The growth plan states that the designation of "Public Institutional" is used for "property that has already been selected for a school site, or some other institutional or public use."

Major Subdivision

The LDC stipulates that the following criteria is met before a major subdivision plat can be approved

1. Section 20-0907 of the LDC stipulates that no major subdivision plat application will be accepted for land that is not consistent with an approved Growth Plan or zoned to accommodate the proposed development.

The plat creates one lot in one block, intended for the development of a public elementary school. The growth plan is proposed to be amended from the current "Commercial" land use designation to the "Public and Institutional" land use designation, and the zoning to be changed to "P/I, Public Institutional" as part of this project, as these are the appropriate land use designation and zone for a public elementary school. In accordance with Section 20-0901.F of the LDC, notices of the proposed plat have been sent out to property owners within 300 feet of the subject property. To date, staff has not received any public comment. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments. **(Criteria Satisfied)**

2. Section 20-0907.4 of the LDC further stipulates that the Planning Commission shall recommend approval or denial of the application and the City Commission shall act to approve or deny, based on whether it is located in a zoning district that allows the proposed development, complies with the adopted Area Plan, the standards of Article 20-06 and all other applicable requirements of the Land Development Code.

The property is proposed to be zoned P/I, Public/Institutional, a zoning that is consistent with the proposed land use designation of "Public and Institutional" in the 2003 Growth Plan. The configuration of the plat, including the widths of rights of way to be dedicated by the plat, is consistent with the requirements of Article 20-06. The project has been reviewed by the city's Planning, Engineering, Public Works, Inspections, and Fire Departments. **(Criteria Satisfied)**

3. Section 20-907.C.4.f of the LDC stipulates that in taking action on a Final Plat, the Board of City Commissioners shall specify the terms for securing installation of public improvements to serve the subdivision.

The applicant has provided a draft amenities plan that specifies the terms or securing installation of public improvements to serve the subdivision. This amenities plan has been reviewed by the Public Works Project Evaluation Committee (PWPEC. Any improvements associated with the project (both existing and proposed) are subject to special assessments. Special assessments

<p>associated with the costs of the public infrastructure improvements are proposed to be spread by the front footage basis and storm sewer by the square footage basis as is typical with the City of Fargo assessment principles (Criteria Satisfied)</p>
<p>Staff Recommendation:</p> <p>Suggested Motion: "To accept the findings and recommendations of the Planning Commission and staff and hereby waive the requirement to receive the rezoning Ordinance one week prior to the first reading and place the rezoning Ordinance on for first reading, and move to approve the proposed 1) zoning change from AG, Agricultural to P/I, Public/Institutional; 2) growth plan amendment to amend the 2003 Growth Plan from "Commercial Area" to "Public and Institutional" for the subject property; and 3) major subdivision Rocking Horse Farm Sixth Addition as the proposal complies with the Go2030 Fargo Comprehensive Plan, 2003 Growth Plan, Section 20-0906.F (1-4), 20-0905.H, the standards of Article 20-06, and all other applicable requirements of the LDC."</p>
<p>Planning Commission Recommendation: February 1st, 2022</p> <p>At the February 1st, 2022 Planning Commission, by a vote of 6-0 with two Commissioners absent and three Commission seats vacant, that Commission moved to accept the findings and recommendations of staff and to recommend approval to the City Commission of the proposed 1) zoning change from AG, Agricultural to P/I, Public/Institutional; 2) growth plan amendment to amend the 2003 Growth Plan from "Commercial Area" to "Public and Institutional" for the subject property; and 3) major subdivision Rocking Horse Farm Sixth Addition as the proposal complies with the Go2030 Fargo Comprehensive Plan, 2003 Growth Plan, Section 20-0906.F (1-4), 20-0905.H, the standards of Article 20-06, and all other applicable requirements of the LDC."</p>
<p>Attachments:</p> <ol style="list-style-type: none"> 1. Zoning map 2. Growth Plan Map 3. Location map 4. Preliminary plat

Plat (Major), Zone Change (AG to P/I), and Growth Plan Amendment

Rocking Horse Farm 6th Addition

5801 52nd Avenue South



Legend

AG	DMU	LC	MHP	5000
GC	MR-1	MNR-2	NCO	5000-2
GO	MR-3	P/I	UMU	5000-3
				5000-4
				5000-5
				City Limits

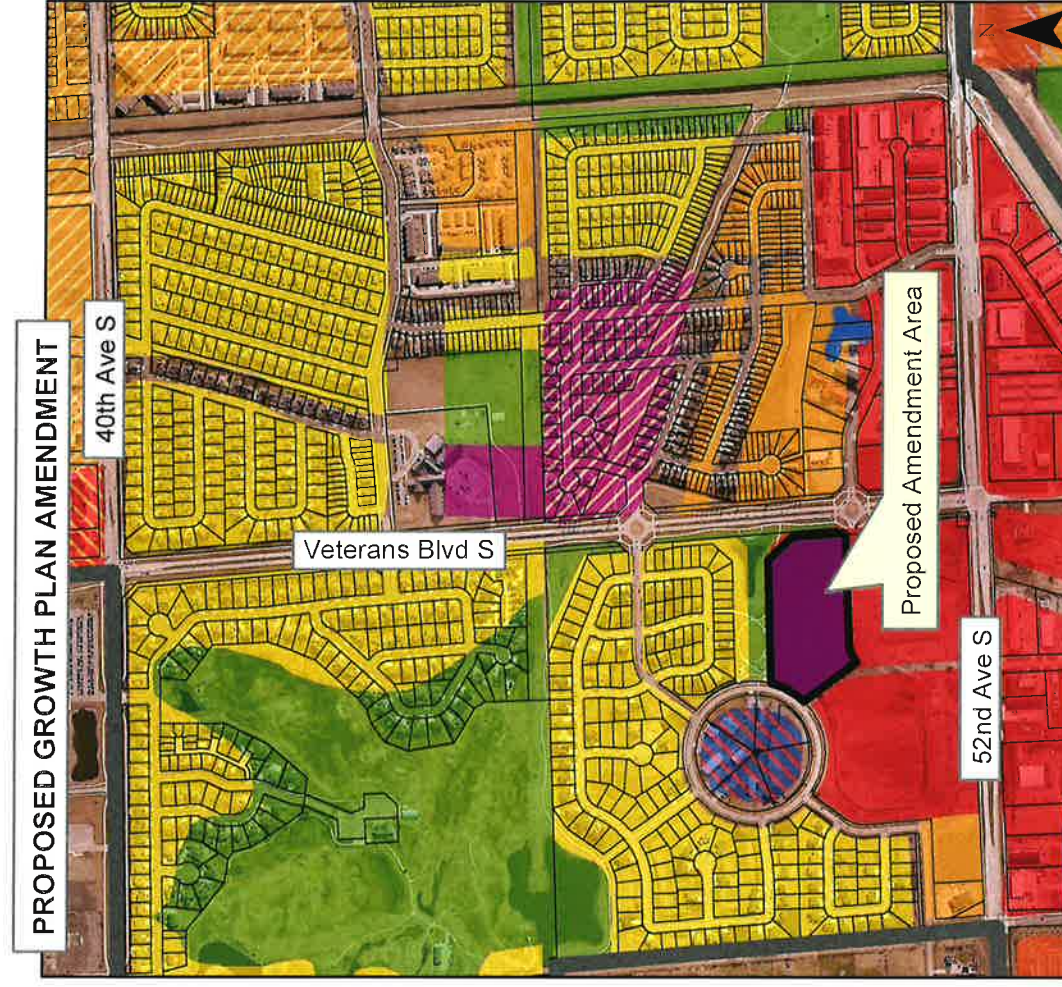
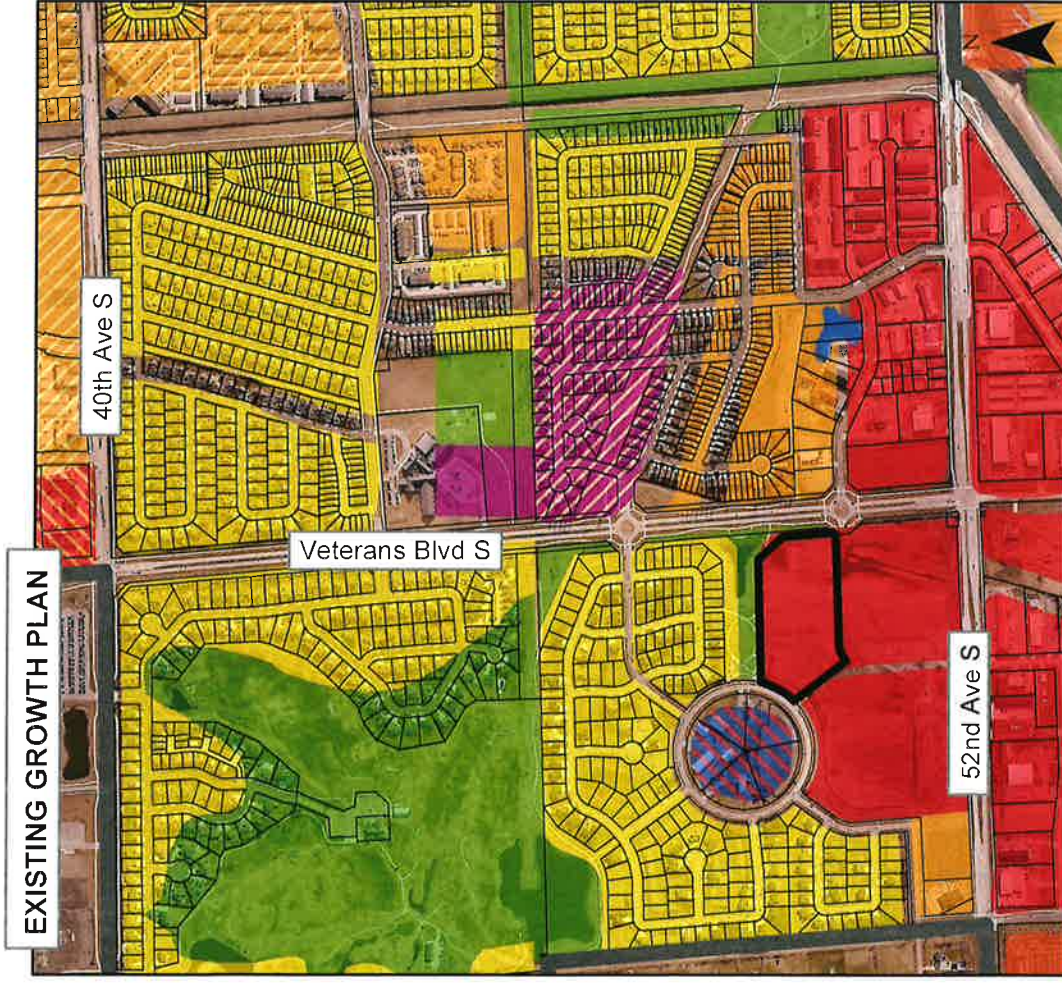
300

Feet

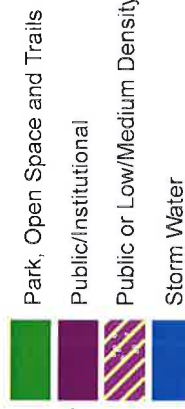
Growth Plan Amendment (Commercial to Public/Institutional)

Rocking Horse Farm 6th Addition

5801 52nd Avenue South



2003 Southwest Future Land Use Plan



Fargo Planning Commission

February 1, 2022

Plat (Major), Zone Change (AG to P/I), and Growth Plan Amendment

Rocking Horse Farm 6th Addition

5801 52nd Avenue South



ROCKING HORSE FARM 6TH ADDITION
A MAJOR PLAT
BEING A PLAT OF PART OF THE SOUTHEAST
QUARTER OF SECTION 32, T. 139 N., R. 49 W., 5th P.M.
TO THE CITY OF FARGO,
CASS COUNTY, NORTH DAKOTA

Page 33

CITY ENGINEER'S APPROVAL
Approved by the Fargo City Engineer this _____ day of _____, 20____.

Brenda E. Derrig, City Engineer

State of North Dakota)
County of Cass) ss

On this _____ day of _____, 20____, before me personally appeared Brenda E. Derrig, Fargo City Engineer, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that she executed the same as her free act and deed.

Notary Public: _____

FARGO PLANNING COMMISSION APPROVAL
Approved by the Fargo Planning Commission this _____ day of _____, 20____.

Rocky Schneider, Chair
Fargo Planning Commission

State of North Dakota)
County of Cass) ss

On this _____ day of _____, 20____, before me personally appeared Rocky Schneider, Chair, Fargo Planning Commission, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same as his free act and deed.

Notary Public: _____

FARGO CITY COMMISSION APPROVAL
Approved by the Board of City Commissioners and ordered filed this _____ day of _____, 20____.

Timothy J. Mahoney, Mayor

Attest: _____
Steven Sprague, City Auditor

State of North Dakota)
County of Cass) ss

On this _____ day of _____, 20____, before me personally appeared Timothy J. Mahoney, Mayor, City of Fargo, and Steven Sprague, City Auditor, City of Fargo, known to me to be the persons who are described in and who executed the within instrument and acknowledged to me that they executed the same on behalf of the City of Fargo.

Notary Public: _____

OWNER:
Rocking Horse Farm, LLC
Kenneth L. Promenberger, President

State of North Dakota)
County of Cass) ss

On this _____ day of _____, 20____, before me personally appeared Kenneth L. Promenberger, President of Rocking Horse Farm, LLC, a North Dakota Limited Liability Company, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same on behalf of the said Limited Liability Company.

Notary Public: _____

CONTRACT FOR DEED VENUE
Jeland Properties, LLC

Janice L. Promenberger, President

State of North Dakota)
County of Cass) ss

On this _____ day of _____, 20____, before me personally appeared Janice L. Promenberger, President of Jeland Properties, LLC, a North Dakota Limited Liability Company, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that she executed the same on behalf of the said Limited Liability Company.

Notary Public: _____

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT:
James A. Schlemmer, Professional Land Surveyor under the laws of the State of North Dakota, do hereby certify that the within instrument was acknowledged before me and that said submission for the guidance of future surveys have been located or placed in the ground as shown.

Dated this _____ day of _____, 20____.

James A. Schlemmer, Professional Land Surveyor No. 6396

State of North Dakota)
County of Cass) ss

On this _____ day of _____, 20____, before me personally appeared James A. Schlemmer, Professional Land Surveyor, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same as his free act and deed.

Notary Public: _____



Sheet 2 of 2
Project No. 6250-0005

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

3263

AN ORDINANCE REZONING A CERTAIN PARCEL
OF LAND LYING IN ROCKING HORSE FARM SIXTH ADDITION
TO THE CITY OF FARGO, CASS COUNTY, NORTH DAKOTA

WHEREAS, the Fargo Planning Commission and the Board of City Commissioners of the City of Fargo have held hearings pursuant to published notice to consider the rezoning of certain parcels of land lying in the proposed Rocking Horse Farm Sixth Addition to the City of Fargo, Cass County, North Dakota; and,

WHEREAS, the Fargo Planning Commission recommended approval of the rezoning request on February 1, 2022; and,

WHEREAS, the rezoning changes were approved by the City Commission on April 4, 2022,

NOW, THEREFORE,

Be It Ordained by the Board of City Commissioners of the City of Fargo:

Section 1. The following described property:

All of Rocking Horse Farm Sixth Addition to the City of Fargo, Cass County, North Dakota;

is hereby rezoned from "AG", Agricultural, District to "P/I", Public and Institutional, District.

Section 2. The City Auditor is hereby directed to amend the zoning map now on file in his office so as to conform with and carry out the provisions of this ordinance.

OFFICE OF THE CITY ATTORNEY
FARGO, NORTH DAKOTA

ORDINANCE NO. _____

1
2
3 Section 3. This ordinance shall be in full force and effect from and after its passage and
4 approval.
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Timothy J. Mahoney, M.D., Mayor

(SEAL)

Attest:

Steven Sprague, City Auditor

First Reading:
Second Reading:
Final Passage:

320

March 28, 2022

Board of City Commissioners
City Hall
Fargo, ND 58102

RE: Payment in Lieu of Tax (PILOT) for Dakota Specialty Milling, Inc.

Dear Commissioners:

Attached is the application made by Dakota Specialty Milling Inc. for a 5-year payment in lieu of tax (PILOT) according to N.D.C.C. Chapter 40-57.1. This application is for an addition to the existing building to expand their operation, which involves agricultural processing.

Notices to competitors have been published. The Economic Development Incentive Committee has met to consider this application. No potential competitors appeared at the Economic Development Incentive Committee meeting. This project meets our current policy. The application contains information regarding projected value of the expansion, the nature of jobs to be created, and a description of the product line. The applicant will pay the full land tax estimated at approximately \$9,700 annually.

The recommendation of the Economic Development Incentive Committee is to approve a 5-year, 100% exempt payment in lieu of tax (PILOT).

SUGGESTED MOTION:

Approval of a 5-year, 100% exemption payment in lieu of tax for Dakota Specialty Milling at 1430 41 St N.

Sincerely,



Mike Splonskowski
City Assessor

Application For Property Tax Incentives For New or Expanding Businesses

N.D.C.C. Chapter 40-57.1

Project Operator's Application To Fargo
City or County

File with the City Auditor for a project located within a city; County Auditor for locations outside of city limits.

A representative of each affected school district and township is included as a non-voting member in the negotiations and deliberation of this application.

This application is a public record

Identification Of Project Operator

1.	Name of project operator of new or expanding business <u>Dakota Specialty Milling, Inc.</u>
2.	Address of project <u>1430 41st St. N</u>
	City <u>Fargo</u> County <u>Cass</u>
3.	Mailing address of project operator <u>4014 15th Ave N</u>
	City <u>Fargo</u> State <u>ND</u> Zip <u>58102</u>
4.	Type of ownership of project
	<input type="checkbox"/> Partnership <input checked="" type="checkbox"/> Subchapter S corporation <input type="checkbox"/> Individual proprietorship <input type="checkbox"/> Corporation <input type="checkbox"/> Cooperative <input type="checkbox"/> Limited liability company
5.	Federal Identification No. or Social Security No. [REDACTED]
6.	North Dakota Sales and Use Tax Permit No. [REDACTED]
7.	If a corporation, specify the state and date of incorporation [REDACTED]
8.	Name and title of individual to contact <u>Peter Matthaei CEO</u>
	Mailing address <u>4014 14th Ave N</u>
	City, State, Zip <u>Fargo, ND 58102</u> Phone No. <u>701-282-9656</u>

Project Operator's Application For Tax Incentives

9.	Indicate the tax incentives applied for and terms. Be specific.
	<input checked="" type="checkbox"/> Property Tax Exemption <input type="checkbox"/> Payments In Lieu of Taxes
	<u>5</u> Number of years Beginning year _____ Ending year _____ <u>100%</u> Percent of exemption Amount of annual payments (attach schedule if payments will vary)
10.	Which of the following would better describe the project for which this application is being made:
	<input type="checkbox"/> New business project <input checked="" type="checkbox"/> Expansion of a existing business project

- 1 -

Description of Project Property

11. Legal description of project real property

Lot: 4 Block: 8 Industrial Sub #1 S 345' of LT 4 BLK 8 and Lot: 4 Block: 8 Addition: Industrial sub #1 Lot 4 less S 345' BLK 8

12. Will the project property be owned or leased by the project operator? ☒ Owned ☐ Leased

If the answer to 12 is leased, will the benefit of any incentive granted accrue to the project operator?

☐ Yes ☐ No

If the property will be leased, attach a copy of the lease or other agreement establishing the project operator's benefits.

13. Will the project be located in a new structure or an existing facility? ☒ New construction ☐ Existing facility

If existing facility, when was it constructed? _____

If new construction, complete the following:

a. Estimated date of commencement of construction of the project covered by this application 10/1/22

b. Description of project to be constructed including size, type and quality of construction
The project consists of a 40,000 sq. ft. expansion onto existing facility. It will include 5,500 sq ft of operations for a blending line, and the rest will be for raw and finished good storage. The building is concrete floors with a Metal building.

c. Projected number of construction employees during the project construction 30

14. Approximate date of commencement of this project's operations 11/1/22

15. Estimated market value of the property used for this project:

a. Land.....\$ 680,000

b. Existing buildings and structures for which an exemption is claimed.....\$ 0

c. Newly constructed buildings and structures when completed.....\$ 4,000,000

d. Total.....\$ 4,680,000

e. Machinery and equipment.....\$ 1,000,000

16. Estimate taxable valuation of the property eligible for exemption by multiplying the market values by 5 percent:

a. Land (not eligible) 

b. Eligible existing buildings and structures.....\$ _____

c. Newly constructed buildings and structures when completed.....\$ 200,000.00

d. Total taxable valuation of property eligible for exemption (Add lines b and c).....\$ 200,000.00

e. Enter the consolidated mill rate for the appropriate taxing district..... 284.79

f. Annual amount of the tax exemption (Line d multiplied by line e).....\$ 56,458.00

Description of Project Business

Note: "project" means a newly established business or the expansion portion of an existing business. Do not include any established part of an existing business.

17. Type of business to be engaged in: ☒ Ag processing ☐ Manufacturing ☐ Retailing
☐ Wholesaling ☐ Warehousing ☐ Services
18. Describe in detail the activities to be engaged in by the project operator, including a description of any products to be manufactured, produced, assembled or stored (attach additional sheets if necessary).
The new facility will house both finished and raw materials to support our milling, blending, and toasting lines in the surrounding industrial park. It will also house a new blending line which is an extension of our business in St. Louis, MO that we have chosen to expand to Fargo, ND. We will be using raw materials such as wheat, rye, oats, barley, starches, and many specialty grains sourced both locally in ND and around the country/world.
19. Indicate the type of machinery and equipment that will be installed
We intend to install a ribbon blender, packing stations, and tote unloading equipment.
20. For the project only, indicate the projected annual revenue, expense, and net income (before tax) from either the new business or the expansion itself for each year of the requested exemption.

Year (12 mo. periods)	New/Expansion Project only <u>Year 1</u>	New/Expansion Project only <u>Year 2</u>	New/Expansion Project only <u>Year 3</u>	New/Expansion Project only <u>Year 4</u>	New/Expansion Project only <u>Year 5</u>
Annual revenue	<u>3,000,000</u>	<u>3,250,000</u>	<u>3,500,000</u>	<u>3,500,000</u>	<u>3,500,000</u>
Annual expense	<u>2,700,000</u>	<u>2,925,000</u>	<u>3,150,000</u>	<u>3,150,000</u>	<u>3,150,000</u>
Net income	<u>300,000</u>	<u>325,000</u>	<u>350,000</u>	<u>350,000</u>	<u>350,000</u>

21. Projected number and salary of persons to be employed by the project for the first five years:

Current positions & positions added the initial year of project

# Current Positions	New Positions Under \$13.00	New Positions \$13.01-\$15.00	New Positions \$15.01-\$20.00	New Positions \$20.01-\$28.00	New Positions \$28.01-\$35.00	New Positions Over \$35.00
0				14		

Year	(Before project)	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>
No. of Employees	(1) <u>0</u>	<u>14</u>	<u>14</u>	<u>14</u>	<u>14</u>	<u>14</u>
	(2) _____	_____	_____	_____	_____	_____
Estimated payroll	(1) _____	<u>640,640</u>	<u>640,640</u>	<u>640,640</u>	<u>640,640</u>	<u>640,640</u>
	(2) _____	_____	_____	_____	_____	_____

(1) - full time
(2) - part time

Previous Business Activity

22. Is the project operator succeeding someone else in this or a similar business? ☐ Yes ☒ No

23. Has the project operator conducted this business at this or any other location either in or outside of the state?
☒ Yes ☐ No

24. Has the project operator or any officers of the project received any prior property tax incentives? ☒ Yes ☐ No
 If the answer to 22, 23, or 24 is yes, give details including locations, dates, and name of former business (attach additional sheets if necessary).
See attached

Business Competition

25. Is any similar business being conducted by other operators in the municipality? ☐ Yes ☒ No
 If YES, give name and location of competing business or businesses

 Percentage of Gross Revenue Received Where Underlying Business Has ANY Local Competition %

Property Tax Liability Disclosure Statement

26. Does the project operator own real property in North Dakota which has delinquent property tax levied against it? ☐ Yes ☒ No

27. Does the project operator own a greater than 50% interest in a business that has delinquent property tax levied against any of its North Dakota real property? ☐ Yes ☒ No
 If the answer to 26 or 27 is Yes, list and explain

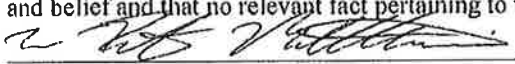
Use Only When Reapplying

28. The project operator is reapplying for property tax incentives for the following reason(s):
☐ To present additional facts or circumstances which were not presented at the time of the original application
☐ To request continuation of the present property tax incentives because the project has:
 ☐ moved to a new location
 ☐ had a change in project operation or additional capital investment of more than twenty percent
 ☐ had a change in project operators
☐ To request an additional annual exemption for the year of _____ on structures owned by a governmental entity and leased to the project operator. (See N.D.C.C. § 40-57.1-04.1)

Notice to Competitors of Hearing

Prior to the hearing, the applicant must present to the governing body of the county or city a copy of the affidavit of publication giving notice to competitors unless the municipality has otherwise determined there are no competitors.

I, W. Peter Matthaei, do hereby certify that the answers to the above questions and all of the information contained in this application, including attachments hereto, are true and correct to the best of my knowledge and belief and that no relevant fact pertaining to the ownership or operation of the project has been omitted.



Signature

CEO

Title

2/11/22

Date

PRIVACY ACT NOTIFICATION

In compliance with the Privacy Act of 1974, disclosure of a social security number or Federal Employer Identification Number (FEIN) on this form is required under N.D.C.C. §§ 40-57.1-03, 40-57.1-07, and 57-01-15, and will be used for tax reporting, identification, and administration of North Dakota tax laws. Disclosure is mandatory. Failure to provide the social security number or FEIN may delay or prevent the processing of this form.

Certification of Governing Body (To be completed by the Auditor of the City or County)

The municipality shall, after granting any property tax incentives, certify the findings to the State Tax Commissioner and Director of Tax Equalization by submitting a copy of the project operator's application with the attachments. The governing body, on the _____ day of _____, 20____, granted the following:

☐ **Property Tax Exemption**

☐ **Payments in lieu of taxes**

_____ Number of years

_____ Beginning year

_____ Ending year

_____ Percent of exemption

_____ Amount of annual payments (Attach schedule if payments will vary)

Auditor

Business Incentive Agreement

1. In fulfillment of the requirements of N.D.C.C. § 54-60.1-03, Grantor and Recipient enter into this Business Incentive Agreement.

Grantor

Name	City of Fargo
Address	225 4th Street North Fargo, ND 58102

Recipient

Name	Dakota Specialty Milling		
Address	4014 15th Ave. N Fargo, ND 58102		
Contact Person	Peter Matthaai	E-mail Address	pmatthaai@dakotaspecialtymilling.com
Recipient Parent Company (If applicable) Dakota Specialty Enterprises			
Business Type (NAICS Code) 311211; 311230; 311999			
Location of Recipient Prior to Receiving Incentive (If different)			

2. Description of project.

We plan to add 40,000 sq. ft of warehouse and production space onto an existing 19,000 sq. ft office/warehouse building currently on the premises. The manufacturing will be a line extension of products we are currently making in our St. Louis, MO facility. The new space will be roughly 6,000 sq. ft. production and 34,000 sq. ft warehouse.

3. Grantor(s) agrees to provide recipient with a business incentive described as follows:

3.a. Is this incentive tax increment financing? ☐ Yes ☐ No

If yes, describe the type of district:

4. The business incentive will be provided on _____.
This date is the benefit date.

5. The public purpose(s) of the business incentive are:

- | | |
|------------------------------------------------------------------------------|----------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> Assisting community development | <input checked="" type="checkbox"/> Increase tax base |
| <input checked="" type="checkbox"/> Directly create employment opportunities | <input checked="" type="checkbox"/> Indirectly increase employment opportunities |
| <input checked="" type="checkbox"/> Job retention | <input type="checkbox"/> Other _____ |

6. Value of Business Incentive: \$ _____

7. Recipient currently employs 150 people, located in Fargo, ND.

8. In return for the business incentive, Recipient shall, within two years create: 15-20
Number of full-time equivalent jobs

<u>\$18-30</u>	+	<u>\$13</u>	=	<u>\$31-43</u>
Average hourly wage		Benefits per hour value		Average hourly compensation

9. The Recipient shall continue operations in the jurisdiction in which the business incentive was issued for five years or more after the benefit date.

10. Recipient shall file a recipient report with the Grantor, as described in N.D.C.C. § 54-60.1-05 annually on or before March 1st of each year for two years, beginning in 2007, following the benefit date or until the goals of paragraph 8 are met, whichever is later.

10.a. Grantor shall mail the recipient a warning letter if no report is received by March 8th. Recipient shall file the progress report within 14 days of the postmarked date of the warning letter.

10.b. If a recipient report is not received within 14 days of the warning letter, Recipient agrees to pay to Grantor a \$100 penalty for each subsequent day until the report is filed. The maximum penalty under this section may not exceed \$1,000.


11. Recipient shall pay back the value of the incentive to the Grantor, prorated to reflect any partial fulfillment of the job and compensation goals, if, after two years, the job and compensation goals listed in paragraph 8 are not met.

- 11.a. Paragraph 11 does not apply if the job and compensation goals were not met as a result of an act of God or terrorism.
12. This business incentive agreement shall only be modified or extended by the Grantor pursuant to N.D.C.C. § 54-60.1-04.
13. If the terms of this business incentive agreement are not met, Recipient shall not receive a business incentive from any grantor for five years from the date of failure or until a recipient satisfies the repayment obligation.
14. The Recipient has disclosed, in attachment "A" of this agreement, all additional financial assistance received from state or political subdivision Grantors for this project since inception.
15. By signing this agreement, Recipient verifies that it has not failed to meet the terms of any business incentive agreement in the last five years.

Dated this _____ day of _____, 20____.

Grantor: _____ on behalf of _____

Dated this 15th day of February, 2022.

Recipient:  on behalf of Dakota Specialty Milling

Attachment "A"

Recipient has received the following additional financial assistance from state or political subdivision Grantors for this project since inception.

Grantor	Description of Assistance	
Value of Assistance	Benefit Date	Pending Benefit Date

Grantor	Description of Assistance	
Value of Assistance	Benefit Date	Pending Benefit Date

Grantor	Description of Assistance	
Value of Assistance	Benefit Date	Pending Benefit Date

Grantor	Description of Assistance	
Value of Assistance	Benefit Date	Pending Benefit Date

Grantor	Description of Assistance	
Value of Assistance	Benefit Date	Pending Benefit Date

NORTH
Dakota | Commerce
Be Legendary.™

December 30, 2020

Bryan Hendricks
Dakota Specialty Milling Inc
PO Box 46
Fargo, ND 58107-0046

Dear Bryan:

Thank you for your application for primary-sector certification by the North Dakota Department of Commerce, Economic Development & Finance Division. We have reviewed your application and determined that ED&F can certify your company, **Dakota Specialty Milling Inc**, as primary sector and a new wealth creator in the economy of North Dakota. This certification is valid for **four years** from today's date (expires 12/30/2024).

Most of North Dakota's economic development programs, tools and incentives are targeted toward primary-sector clients. You may be requested to provide a copy of this primary-sector certification letter when you apply for certain economic development incentive and funding programs.

This certification does not guarantee the receipt of any North Dakota business incentive. For example, there are additional qualification criteria for the Seed Capital Investment and Agricultural Business Investment personal income tax credits, and it is critical that investments **NOT** be made prior to the business receiving certification for these two credits. If you are pursuing certification for investment tax credits and need to know the criteria required for qualification, contact Joe Cicha 701-328-7283.

This certification is not the application process for the North Dakota New Jobs Training Program administered by Job Service North Dakota. To apply for the North Dakota New Jobs Training Program, you must contact Job Service North Dakota for the required application forms. Application forms for other programs that require primary sector certification are available from the agency administering the program.

Also, companies and individuals pursuing the investment tax credit incentive are reminded there is a cap on available dollars. Please visit with the ND Office of the Tax Commissioner regarding the remaining balance for investment tax credits. The credits are available on a first-come-first-serve basis until the law-defined cap is met.

North Dakota appreciates your contribution to the citizens and economy of our state. If there is anything further we can do to assist your company, please contact us at 701-328-5300.

Sincerely,



Joshua Teigen, Director
Economic Development & Finance Division

1600 E Century Avenue, Suite 2 | P.O. Box 2057 | Bismarck, ND 58502-2057

PHONE: 701-328-5300 | TOLL-FREE: 1-866-4DAKOTA | ND RELAY TTY: 1-800-366-6888 | VOICE: 1-800-366-6889 | NDCommerce.com

Exemption Evaluation Calculator				138.0		138.0	
Dakota Specialty Milling Inc 2022				Points		Points	
Project Type Code	Year 1	1	38.0	Year 3	1	38.0	
Current Number Of Employees		0			14		
Hourly Salary Without Benefits	# Jobs			# Jobs			
Under \$13.00							
\$13.01-\$15.00							
\$15.01-\$20.00							
\$20.01-\$28.00	14	Pts. For # Jobs->	25.0	14	Pts. For # Jobs->	25.0	
\$28.01-\$35.00		Pts. For \$ Jobs->	30.0		Pts. For \$ Jobs->	30.0	
Over \$35.00							
TOTAL # OF JOBS CREATED	14			14			
% GI w/ Local Competition (not downtown)			25.0			25.0	
Value of Proposed Buildings	\$ 4,000,000		20.0	\$ 4,000,000		20.0	
Downtown Location (Y/N)	N		0.0	N		0.0	
Startup Firm (Y/N)	N		0.0	N		0.0	
Has Const Started or Has Bldg Been Leased or Occupied If Existing (Y/N)	N		0.0	N		0.0	
Number of Years (Exemption)	5			5			
Company Safety Experience Rating			0.0			0.0	
RECOMMENDATION IS TO			APPROVE	APPROVE			
Description	Manufacturing			Description	Manufacturing		
Estimated New Annual Payroll	\$698,880			Estimated New Annual Payroll	\$698,880		
Estimated Annual Real Estate Tax	\$56,958			Estimated Annual Real Estate Tax	\$56,958		
Property Value / # of Jobs	\$ 285,714			Property Value / # of Jobs	\$ 285,714		
Total Value Of Benefit	\$ 284,790			Total Value Of Benefit	\$ 284,790		

(33)

March 31, 2022

Honorable Board of City Commissioners
City of Fargo
225 4th Street North
Fargo, ND 58102

Subject: Red River Valley Water Supply Project (RRVWSP) – Credit Agreement for Series C Work

Dear Commissioners:

Attached for your reference, please find a Credit Agreement related to the Series C construction work on the RRVWSP. As you may recall, at the July 26, 2021, Commission meeting, the Commission approved a Series C Interim Financing Agreement for the 25% local cost-share associated with 2021-2023 State funding for the project. The Commission had previously approved Series A and Series B Agreements to begin construction on strategic components of the RRVWSP. Garrison Diversion is financing the Series C work through a Bank of North Dakota (BND) infrastructure loan. One of the BND loan requirements is a Credit Agreement from the participating entities. The participating entities are the Garrison Diversion Conservancy District (GDCCD), the Lake Agassiz Water Authority and the cities of Grand Forks and Fargo.

The Series C work involves continued construction on the Missouri River intake structure, Sheyenne River discharge structure and certain pipeline segments. The reason for separate agreements is because Series A was subject to a 10% local cost-share (2017-2019 biennium), while Series B (2019-2021 biennium) and Series C (2021-2023 biennium) are subject to a 25% local cost-share.

Background

The RRVWSP is a project to deliver Missouri River water to the Red River Valley and central North Dakota. The project is necessary due to the susceptibility of existing water supplies under drought conditions. Thus, the project is critical for our region to establish climate resiliency during periods of drought.

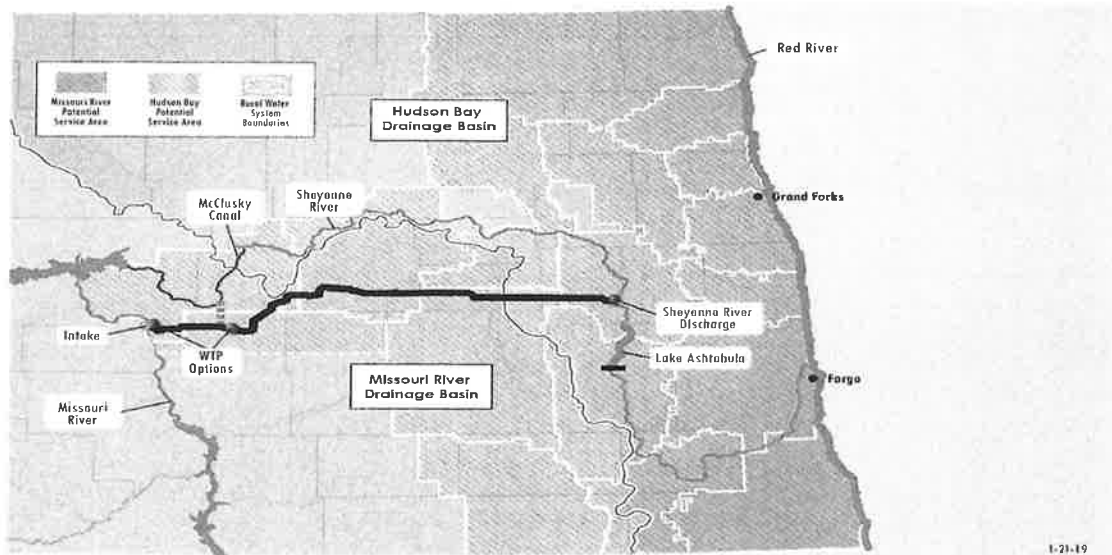


Red River - 1930s



Red River - 1988

The project is being funded through a State and local partnership with the GDCD representing the State of North Dakota and LAWA representing the local water users. As a member of LAWA and a key sponsor of the RRVWSP, the City of Fargo was asked to approve Series A, B and C agreements to enable the start of construction on three critical project components. The three components include the Missouri River Intake Structure, Transmission Pipeline Segments and the Sheyenne River Discharge Structure. All necessary State and Federal permits for the construction have been obtained and it was important to get the project started in advance of the permits expiring.



Red River Valley Water Supply Project – Plan Overview

Interim Financing Agreements

- Series A

The previously approved Series A Interim Financing Agreement was for a local cost-share participation associated with the 2017-2019 State biennial funding allocation. The State allocation was subject to a 10% local cost-share match.

- Series B

The previously approved Series B Interim Financing Agreement was for a local cost-share participation associated with the 2019-2021 State biennial funding allocation. The State allocation was subject to a 25% local cost-share match.

- Series C

The previously approved Series C Interim Financing Agreement is for local cost-share participation associated with the 2021-2023 State biennial funding allocation. The State allocation is subject to a 25% local cost-share match. GDCD is financing the local cost-share through an infrastructure revolving loan with the Bank of North Dakota (BND). The Credit Agreement is associated with the BND infrastructure

revolving loan and defines the repayment obligations of the cities of Grand Forks and Fargo to the GDCC. Fargo's share of the local cost-share match will be in the form of annual debt service payments of \$680,000.

Plan of Financing – Series A, B and C

Fargo's share of the Series A, B and C project cost-shares have been included in the annual Water Utility budgets over four budget cycles in 2019, 2020, 2021 and 2022.

<u>Budget Year</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>
Budget Amount	\$850,000	\$900,000	\$800,000	<i>\$700,000</i>

SUGGESTED MOTION

Approve the attached Credit Agreement with the Bank of North Dakota for financing associated with the local cost-share for Series C work on Red River Valley Water Supply Project.

Your consideration in this matter is greatly appreciated.

Sincerely,



Bruce P. Grubb
City Administrator

C: Michael Redlinger, Assistant City Administrator
Troy Hall, Water Utility Director
Merri Mooridian, Garrison Diversion Conservancy District
Nancy Morris, City Attorney

CREDIT AGREEMENT

BY AND BETWEEN
GARRISON DIVERSION CONSERVANCY DISTRICT
AND
LAKE AGASSIZ WATER AUTHORITY
AND
CITY OF FARGO, NORTH DAKOTA
AND
CITY OF GRAND FORKS, NORTH DAKOTA

Dated as of _____, 2022

Relating to:

**A Credit Agreement relating to the financing of the Local Project Costs of the 2021-2023
Biennium work for the Red River Valley Water Supply Project.**

TABLE OF CONTENTS

ARTICLE I. DEFINITIONS AND INTERPRETATION.....	2
SECTION 1.01 DEFINITIONS	2
SECTION 1.02 INTERPRETATION	2
ARTICLE II. BND LOAN DEBT SERVICE PAYMENTS	3
SECTION 2.01 SERIES C AGREEMENT	3
SECTION 2.02 GARRISON SHARE	3
SECTION 2.03 BND LOAN RESIZING AND APPLICATION.....	4
SECTION 2.04 CALCULATION OF FARGO SHARE AND GRAND FORKS SHARE.....	4
SECTION 2.05 CONTRACTS PRE-BND LOAN	4
SECTION 2.06 FUTURE FINANCING	4
SECTION 2.07 TERMINATION OF THIS AGREEMENT.....	4
ARTICLE III. THIRD PARTY BENEFICIARIES	5
SECTION 3.01 BANK OF NORTH DAKOTA.....	5
ARTICLE IV. MISCELLANEOUS.....	5
SECTION 4.01 ENTIRE AGREEMENT.....	5
SECTION 4.02 NOTICE.....	5
SECTION 4.03 GOVERNING LAW.....	6
SECTION 4.04 SEVERABILITY	6
SECTION 4.05 MODIFICATIONS.....	6
SECTION 4.06 BINDING EFFECT	6
SECTION 4.07 REPRESENTATION	6
SECTION 4.08 HEADINGS	6
SECTION 4.09 REPRESENTATION OF AUTHORITY	6
SECTION 4.10 FORCE MAJEURE.....	7
SECTION 4.11 COUNTERPARTS; ELECTRONIC SIGNATURES	7
SIGNATURE PAGES	S-1 THROUGH S-4
EXHIBIT A – BND LOAN DOCUMENTS AND AMORTIZATION SCHEDULES	

CREDIT AGREEMENT

THIS CREDIT AGREEMENT (the “Agreement”) is entered this ____ day of _____, 2022 (the “Effective Date”), by and between GARRISON DIVERSION CONSERVANCY DISTRICT, a governmental agency, body politic and corporate of the State of North Dakota (“Garrison Diversion”); LAKE AGASSIZ WATER AUTHORITY, a governmental agency, body politic and corporate of the State of North Dakota (“LAWA”); CITY OF FARGO, NORTH DAKOTA, a municipal corporation and political subdivision of the State of North Dakota (“Fargo”); and CITY OF GRAND FORKS, NORTH DAKOTA, a municipal corporation and political subdivision of the State of North Dakota (“Grand Forks”).

WHEREAS, Garrison Diversion, LAWA, Fargo, and Grand Forks (collectively, the “Parties”) entered into the Interim Financing Agreement, Series C (“Series C Agreement”), to facilitate the interim financing of the Red River Valley Water Supply Project (the “Project”) prior to the entrance of a Project Participation Agreement between Garrison Diversion and LAWA (the “PPA”); and

WHEREAS, Fargo and Grand Forks are members of LAWA and will be the largest recipients of water from the Project; and

WHEREAS, as part of the Series C Agreement, the Parties agreed that Garrison Diversion would be responsible for initially financing the Local Project Costs for the 2021-2023 Biennium work plan budget (the “2021-2023 Biennium Work”) and it would do so by securing a loan from the Bank of North Dakota (“BND Loan”); and

WHEREAS, the Parties additionally agreed that debt service for the BND Loan would be divided between Garrison Diversion, Fargo, and Grand Forks, with Garrison Diversion carrying 18.79% of the Local Project Cost obligations (“Garrison Share”), Fargo carrying 67.82% of the Local Project Cost obligations (“Fargo Share”), and Grand Forks carrying 13.39% of the Local Project Cost obligations (“Grand Forks Share”); and

WHEREAS, the Garrison Share represents the percentage of LAWA members that will receive a water distribution from the Project that are not Fargo and Grand Forks (the “Small Systems”); and

WHEREAS, the Series C Agreement provides that the Garrison Share will remain a debt of LAWA and will be reimbursed to Garrison Diversion when the PPA long-term funding is put in place or as otherwise agreed in a future interim agreement; and

WHEREAS, this Credit Agreement constitutes the Addendum to the Series C Agreement setting forth the terms and conditions of the BND Loan and will be added to the Series C Agreement upon signature by the Parties as more fully set forth in Section 3.03 of the Series C Agreement.

WHEREAS, the Parties now desire to enter into this Agreement to further redefine roles and responsibilities for the BND Loan and future financing.

NOW THEREFORE, in consideration of the mutual covenants made herein and for other valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

ARTICLE I. DEFINITIONS AND INTERPRETATION

Section 1.01 DEFINITIONS. All capitalized terms used, and not otherwise defined herein, shall have the meanings given to them in this Agreement and as defined in the Series C Agreement and the Cooperation Agreement unless a different meaning clearly applies from the context.

“2021-2023 Biennium Work” means the work outlined in the Series C Agreement and the 2021-2023 Biennium work plan budget and that will be financed according to the terms of the Series C Agreement.

“BND Loan” means the loan obtained by Garrison Diversion from the Bank of North Dakota to finance Local Project Costs as described in section 3.03 of the Series C Agreement.

“Fargo Share” means Fargo’s proportionate share of the Local Project Costs, 67.82%, based on comparing its nomination from the Project to all other nominations.

“Fargo-BND Loan Share” means Fargo’s proportionate share of the Local Project Costs financed by the BND Loan, 83.51%, based on comparing its nomination from the Project to Grand Forks’ nomination from the Project.

“Garrison Share” means the Small Systems’ proportionate share of the Local Project Costs, 18.79%, based on comparing their nominations from the Project to Fargo’s and Grand Forks’ nominations which is initially be paid by Garrison Diversion.

“Grand Forks Share” means Garrison’s proportionate share of the Local Project Costs, 13.39%, based on comparing its nomination from the Project to all other nominations.

“Grand Forks-BND Loan Share” means Grand Forks’ proportionate share of the Local Project Costs financed by the BND Loan, 16.49%, based on comparing its nomination from the Project to Fargo’s nomination from the Project.

“Series C Agreement” means the Interim Financing Agreement, Series C, by and between Garrison Diversion Conservancy District, Lake Agassiz Water Authority, City of Fargo, and City of Grand Forks.

Section 1.02 INTERPRETATION.

(a) The headings of articles and sections are provided for convenience of reference only and will not affect the construction, meaning, or interpretation of this Agreement. Any and all exhibits to this Agreement are hereby incorporated by reference. The definition of terms shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine, and neuter forms. The words “include,” “includes,” and “including” shall be deemed to be followed by the phrase

“without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise (i) any definition of or reference to any agreement, instrument, or other document herein shall be construed as referring to such agreement, instrument, or other document as from time to time amended, supplemented, or otherwise modified (subject to any restrictions on such amendments, supplements, and modifications as set forth herein); (ii) any reference herein to any person shall be construed to include such person’s permitted assigns, (iii) the words “herein,” “hereof,” and “hereunder,” and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (iv) all references herein to articles, sections, exhibits, and schedules shall be construed to refer to articles and sections of, and exhibits and schedules to, this Agreement, and (v) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts, and contract rights. In the computation of periods of time from a specified date, the word “from” means “from and including” and the words “to” and “until” mean “to and including.”

(b) This Agreement is not to be interpreted or construed against the interests of a Party merely because that Party proposed this Agreement or some provisions of it or because that Party relies on a provision of this Agreement to protect itself. The Parties acknowledge and agree that this Agreement has been prepared jointly by the Parties and has been the subject of arm’s length and careful negotiation, that each Party has been given the opportunity to independently review this Agreement with legal counsel, and that each Party has the requisite experience and sophistication to understand, interpret, and agree to the particular language of the provisions of this Agreement. Accordingly, in the event of an ambiguity in or dispute regarding the interpretation of this Agreement, this Agreement will not be interpreted or construed against the Party preparing it simply as a consequence of preparing it.

ARTICLE II.

BND LOAN DEBT SERVICE PAYMENTS

Section 2.01 SERIES C AGREEMENT. Pursuant to section 3.03 of the Series C Agreement, Garrison Diversion is responsible for initially financing the Local Project Costs by obtaining the BND Loan. Section 3.03 additionally sets forth that Fargo and Grand Forks are responsible for repaying their respective proportion of Garrison Diversion’s cost of financing and the interest paid on the BND Loan as part of their payment obligations to Garrison Diversion. Fargo and Grand Forks, pursuant to section 3.04 of the Series C Agreement, will remit their respective payments to Garrison Diversion at least ten (10) days in advance of Garrison Diversion’s BND Loan payment due date. Except as otherwise specifically set forth herein, this Agreement is not intended to modify the Series C Agreement and shall not be interpreted as doing so.

Section 2.02 GARRISON SHARE. As set forth in section 3.05 of the Series C Agreement, Garrison Diversion is responsible for paying that portion of the debt service on the BND Loan that is attributable to all LAWA members besides Fargo and Grand Forks (the “Small Systems”), which the Parties have calculated to be 18.79% of the Local Project Cost obligations (the “Garrison Share”). Due to the structuring of the BND Loan and statutory constraints on Garrison Diversion, Garrison Diversion is unable to pledge funds collected through its annual mill levy for debt service on the BND Loan. Consequently, Garrison Diversion agrees that it will utilize funds that it is

holding in reserve to pay for the Garrison Share in lieu of including the amount of the Garrison Share in the BND Loan.

Section 2.03 BND LOAN RESIZING AND APPLICATION. Due to Garrison Diversion's contribution of reserves, the Parties agree to reduce the originally estimated principal amount of the BND Loan to that amount which will be needed to cover only the Fargo Share and the Grand Forks Share. Garrison Diversion will remain as the issuer of the BND Loan, will irrevocably pledge the funds that it will receive from Fargo and Grand Forks for debt service on the BND Loan, and will receive, pursuant to this Agreement, and apply, the BND Loan proceeds, as well as its reserve funds, as necessary. The proceeds of the BND Loan shall only be utilized to fund work on the Project included in the 2021-2023 Biennium (the "2021-2023 Biennium Work"). If upon completion of the 2021-2023 Biennium Work there remains an unexpended balance of the BND Loan proceeds, Garrison Diversion shall utilize those funds for debt service on the BND Loan, reducing the responsibilities of Fargo and Grand Forks accordingly.

Section 2.04 CALCULATION OF FARGO SHARE AND GRAND FORKS SHARE. Pursuant to section 3.04 of the Series C Agreement, the Fargo Share amounts to 67.82% of the Local Project Costs and the Grand Forks Share amounts to 13.39% of the Local Project Costs. With the removal of the Garrison Share from the BND Loan, Fargo and Grand Forks will proportionately divide the BND Loan debt service based on each entity's nomination from the Project in comparison to the other's nomination, meaning Fargo will be responsible for 83.51% of the BND Loan debt service (the "Fargo-BND Loan Share") and Grand Forks will be responsible for 16.49% of the BND Loan debt service (the "Grand Forks-BND Loan Share"). Fargo and Grand Forks will remit the Fargo-BND Loan Share and the Grand Forks-BND Loan Share, respectively, to Garrison Diversion in accordance with the terms of the Series C Agreement, and Garrison Diversion will timely remit the funds to the Bank of North Dakota in accordance with the terms of the BND Loan. The finalized BND Loan, and amortization schedules for both the Fargo-BND Loan Share and the Grand Forks-BND Loan Share will be attached hereto as Exhibit A upon closure. Fargo and Grand Forks shall provide documentation to the Bank of North Dakota regarding the Fargo-BND Loan Share and the Grand Forks-BND Loan Share as may be reasonably requested by the Bank of North Dakota.

Section 2.05 CONTRACTS PRE-BND LOAN. The Parties agree that each Party's responsibility to fund its respective share of the Local Project Costs in the circumstances described in section 3.04 of the Series C Agreement for approved work on construction contracts prior to the funding of the BND Loan remains in place. Garrison Diversion will fund its portion of the Local Project Costs under these circumstances with its reserves.

Section 2.06 FUTURE FINANCING. The Parties agree that the financing arrangements set forth in this Agreement shall remain in place until the Parties enter into the PPA or as otherwise agreed to in a future interim financing agreement.

Section 2.07 TERMINATION OF THIS AGREEMENT. This Agreement shall terminate thirty (30) calendar days after the Parties execute a PPA, which shall include a provision authorizing Garrison Diversion to pledge revenues received from Fargo and Grand Forks for the payment of debt service on the BND Loan. Those portions of the PPA that pertain to repayment of the debt service of the BND Loan shall be, in form and substance, acceptable to the Bank of North Dakota.

**ARTICLE III.
THIRD PARTY BENEFICIARIES**

Section 3.01 BANK OF NORTH DAKOTA. The Parties agree, acknowledge, and covenant that the funds remitted by Fargo and Grand Forks to Garrison Diversion will be irrevocably pledged for debt service of the BND Loan, which will be taken out by Garrison Diversion. As a result, the Parties agree and acknowledge that, at any time during which one or more of the Parties is in breach or default of its respective obligations arising out of or related to this Agreement, the Bank of North Dakota may enforce the terms and conditions of this Agreement including, without limitation, by securing a court order directing the Party to perform its obligations under the Agreement. In addition to the foregoing, the Bank of North Dakota shall have all other rights available to it at law or in equity, and all of the rights and remedies provided hereunder are deemed cumulative and not exclusive of any rights or remedies provided by law or otherwise available to the Bank of North Dakota.

**ARTICLE IV.
MISCELLANEOUS**

Section 4.01 ENTIRE AGREEMENT. This Agreement contains the entire and exclusive understanding of the Parties with respect to the subject matter thereof, and this Agreement supersedes all prior agreements, understandings, statements, representations, and negotiations, in each case oral or written, between the Parties with respect to the subject matter. This Agreement includes all provisions of the Cooperation Agreement between Garrison Diversion and LAWA, as if all provisions were included herein unless a contrary provision is included herein.

Section 4.02 NOTICE. All notices under this Agreement will be in writing and: (a) delivered personally; (b) sent by certified mail, return receipt requested; (c) sent by a recognized overnight mail or courier service, with delivery receipt requested or (d) sent by facsimile or email communication followed by a hard copy and with receipt confirmed by telephone or return receipt (in the case of email communication), to the following addresses:

If to Garrison Diversion: General Manager
 Garrison Diversion Conservancy District Headquarters
 PO Box 140
 Carrington, ND 58421

If to LAWA: LAWA Board Chair
 Lake Agassiz Water Authority
 PO Box 140
 Carrington, ND 58421

If to Fargo: City Administrator
 Fargo City Hall
 225 4th Street North
 Fargo, ND 58102

If to Grand Forks:

City Administrator
Grand Forks City Hall
255 North 4th Street
Grand Forks, ND 58203

Section 4.03 GOVERNING LAW. This Agreement shall be controlled by the laws of the State of North Dakota. Any action brought as a result of any claim, demand, or cause of action arising under the terms of this Agreement shall be venued in Cass County in the State of North Dakota, and the Parties waive any objection to personal jurisdiction.

Section 4.04 SEVERABILITY. Each provision, section, sentence, clause, phrase, and word of this Agreement is intended to be severable. If any provision, section, sentence, clause, phrase, and word hereof is held by a court with jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.

Section 4.05 CONFLICT WITH SERIES C AGREEMENT. In the event of a conflict between this Agreement and the Series C Agreement, the terms and conditions of the Series C Agreement shall prevail.

Section 4.06 MODIFICATIONS. Any modifications or amendments to this Agreement must be in writing and signed by all Parties to this Agreement.

Section 4.07 BINDING EFFECT. This Agreement shall be for the benefit of, and maybe enforced only by, the Parties and is not for the benefit of, and may not be enforced by any third party except as specifically set forth herein.

Section 4.08 REPRESENTATION. The Parties, having been represented by counsel or having waived the right to counsel, have carefully read and understand the contents of this Agreement, and agree they have not been influenced by any representations or statements made by any other parties.

Section 4.09 HEADINGS. Headings in this Agreement are for the convenience only and will not be used to interpret or construe its provisions.

Section 4.10 REPRESENTATION OF AUTHORITY. Each party signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement and that the Agreement is a valid and legal agreement binding on such Party and enforceable in accordance with its terms.

Section 4.11 FORCE MAJEURE. A Party shall not be held responsible for any delay or failure in performance of any part of this Agreement to the extent such delay or failure is caused by fire, flood, explosion, war, embargo, government requirement, civil or military authority, act of God, or other similar causes beyond its control and without the fault or negligence of the delayed or non-conforming party. The affected Party will notify the other Parties in writing within ten (10) days after the beginning of any such cause that would affect its performance. Notwithstanding, if a Party's performance is delayed for a period exceeding thirty (30) days from the date the other Parties receive notice under this section, the non-affected Parties will have the right, without any liability to the other Parties, to terminate this Agreement. Ongoing litigation and any construction injunction do not qualify as force majeure events.

Section 4.12 COUNTERPARTS; ELECTRONIC SIGNATURES. This Agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by email delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the Party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page was an original thereof.

IN WITNESS WHEREOF, Garrison Diversion, LAWA, Fargo, and Grand Forks caused this Agreement to be executed.

(Remainder of page intentionally left blank.)

Signature Page for the Garrison Diversion Conservancy District

The governing body of the Garrison Diversion Conservancy District approved this Agreement on the ____ day of _____, 2022.

GARRISON DIVERSION
CONSERVANCY DISTRICT, a
governmental agency, body politic and
corporate

By: _____
Alan Walter, Chair

ATTEST:

Secretary

Signature Page for the Lake Agassiz Water Authority

The governing body of the Lake Agassiz Water Authority approved this Agreement on the ____ day of _____, 2022.

LAKE AGASSIZ WATER AUTHORITY, a
governmental agency, body politic and
corporate

By: _____
Dr. Timothy Mahoney, Chair

ATTEST:

Secretary

Signature Page for the City of Fargo, North Dakota

The governing body of the City of Fargo, North Dakota, approved this Agreement on the ____ day of _____, 2022.

CITY OF FARGO, a governmental agency,
body politic and corporate

By: _____
Dr. Timothy Mahoney, Mayor

ATTEST:

Secretary

Signature Page for the City of Grand Forks, North Dakota

The governing body of the City of Grand Forks, North Dakota, approved this Agreement on the ____ day of _____, 2022.

CITY OF GRAND FORKS, a governmental
agency, body politic and corporate

By: _____
Brandon Bochenski, Mayor

ATTEST:

Secretary

EXHIBIT A

**BND LOAN DOCUMENTS AND
AMORTIZATION SCHEDULES**

34

March 31, 2022

Honorable Board of City Commissioners
City of Fargo
225 4th Street North
Fargo, ND 58102

Subject: Formal Letter of Request – Water and Wastewater Service for ND Soybean Processors

Dear Commissioners:

Attached for your reference, please find a letter of request from the ND Soybean Processors for industrial water and wastewater service from Fargo's Water Reclamation Facility. The ND Soybean Processors are planning a soybean processing facility near Casselton, ND and requesting water and wastewater services from the City of Fargo and the Cass Rural Water Users District (CRWUD). Similar to the Tharaldson Ethanol agreement in 2007, it would involve a three party agreement between the ND Soybean Processors, Cass Rural Water Users District and the City of Fargo.

Infrastructure improvements that are necessary to satisfy the request include an expansion of Fargo's Effluent Reuse Facility and transmission piping to deliver water and wastewater return for treatment. Cass Rural Water Users District will provide the financing for the infrastructure improvements, with the ND Soybean Processors repaying the debt. Upon successful start-up, the new infrastructure will be deeded to the City of Fargo to own and operate. Based on the quantities reflected in the letter of request, estimated annual gross revenues would be approximately \$900,000 at full buildout. ND Soybean processors have agreed to reimburse the City of Fargo and Cass Rural Water Users District for any third-party engineering and legal fees associated with the project.

Suggested Motion:

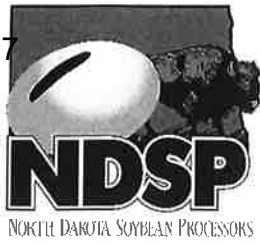
Authorize appropriate administrative, utility and legal staff to negotiate an agreement with the ND Soybean Processors and Cass Rural Water Users District for water and wastewater service.

Sincerely,



Bruce P. Grubb
City Administrator

C: Michael Redlinger, Assistant City Administrator
James Hausauer, Water Reclamation Utility Director
Nancy Morris, City Attorney



North Dakota
Soybean Processors, LLC
Casselton, North Dakota

March 14, 2022

Bruce Grubb
City of Fargo

Jerry Blomeke
Cass Rural Water District

RE: North Dakota Soybean Processors, LLC Formal Letter of Request for Water Resources for New Soybean Crush Plant in Casselton, North Dakota

Dear Bruce and Jerry,

North Dakota Soybean Processors, LLC (NDSP) requests the engagement of both the City of Fargo and Cass Rural Water District in the development of necessary agreements for the provision of treated wastewater and the return of industrial wastewater to and from NDSP's planned soybean processing facility near Casselton, ND; to include the infrastructure and equipment necessary to meet the following specifications:

Water Pipe Design for supply to NDSP: 570 GPM

Water Treatment Plant and Pumping Design Capacity: 375 GPM

Design the water treatment building such that there is room for expansion to 570 GPM

Treated Wastewater Quality Specifications to NDSP:

Cl <10 ppm
Ca++ <10 ppm
Hardness (as CaCO3) <10 ppm
SiO2 <3 ppm
BOD5 <1 ppm
pH 7-8.5

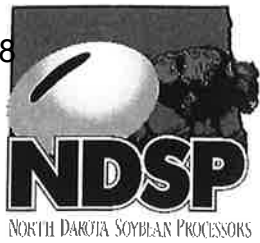
Wastewater Return Pipe & Pumping Design Capacity: 250 GPM

Wastewater Treatment Plant Design Capacity: 250 GPM

Wastewater Profile: All pollutants to be below current thresholds in the City of Fargo's Municipal code

Process Water Storage Capacity at NDSP Plant Site: 60,000 Gal

Except for the NDSP on-site process water storage (the cost, ownership and operation of which will be NDSP's), we understand that the construction and procurement of the required infrastructure and equipment will be funded by the Cass Rural Water District but subject to reimbursement over time by NDSP on a cost-sharing basis yet to be finalized. We also



North Dakota
Soybean Processors, LLC
Casselton, North Dakota

understand that, once constructed, the wastewater treatment facilities will be owned and operated by the City of Fargo, with the balance of the infrastructure and equipment to be owned and operated by the Cass Rural Water District.

Thank you for your consideration of this request.

Sincerely,

Steve O'Nan

Steve ONan
NDSP President

Water Pipe Design to NDSP:	570 GPM	
Water Treatment Plant Design Capacity:	375 GPM	Design building such that there is room for expansion to 570 GPM
Process Water Quality Specifications:		
	Cl	<10 ppm
	Ca++	<10 ppm
	Hardness (as CaCO ₃)	<10 ppm
	SiO ₂	<3 ppm
	BOD ₅	<1 ppm
	pH	7-8.5

Wastewater Return Pipe & Pumping Design Capacity:	250 GPM	
Wastewater Treatment Plant Design Capacity	250 GPM	
Wastewater Profile:	All pollutants to be below current thresholds in Fargo Municipal code.	

Process Water Storage Capacity at NDSP Plant Site:	60,000 Gal	8 hours storage.
----------------------------------------------------	------------	------------------

(35)

SUSTAINABILITY AND RESILIENCY COMMITTEE**Project No.** NA**Type:** Carbon Dashboard and ICRSR Plan**Location:** City Wide**Date of Hearing:** March 8, 2022

<u>Routing</u>	<u>Date</u>
City Commission	April 4, 2022
Project File	NA

Background

Bruce Grubb, City Administrator, presented a proposal to begin development of a Citywide "Carbon Dashboard," as well as, an Infrastructure Carbon Reduction, Sustainability and Resiliency (ICRSR) Plan. The City of Fargo has been involved with emission reduction efforts dating back to 2001. Some examples of these efforts are listed below:

- Landfill Gas Collection and Reuse
- Wastewater Reuse to Tharaldson Ethanol
- EV Chargers at City Hall and RoCo Ramp
- Hybrid MAT Buses
- Hybrid SUV Fleet Vehicles
- Low Emissions Fire Truck

On July 13, 2021, the SRC was given a presentation on the RoCo Smart Energy Ramp Project, a public-private partnership between the City, Kilbourne Group, Xcel Energy, Border States Electric, Microsoft and the North Dakota Industrial Commission. The presentation was provided by representatives of Innowatts Inc. and the Alliance Risk Group (Alliance). The presentation included a demonstration of a "carbon dashboard" that was created for the parking ramp for tracking emission reductions related to renewable energy components at the ramp (i.e. solar, EV charging, battery storage, etc.).

Proposal

Subsequently, City Administration requested a proposal from Innowatts Inc. to create some additional carbon dashboards for other City facilities to begin establishing a carbon baseline for the City of Fargo. In addition, Innowatts Inc. would assist the City in completing an Infrastructure Carbon Reduction, Sustainability and Resiliency (ICRSR) Plan.

The dashboards and ICRSR Plan will benefit the City in the following ways:

- Show Infrastructure Carbon Reduction Sustainability and Resiliency (ICRSR) progress to-date;
- Help guide the Sustainability and Resiliency Committee (SRC) on potential next steps; and
- Obtain Federal and State funding for future ICRSR projects.

ICRSR Plan, Carbon Dashboards and 12-months of Dashboard Operation
Dashboard Operation after the initial 12-month period

\$114,000/LS
\$3,000/month

Since Innowatts Inc. currently has a contract in-place at the RoCo parking ramp, it was suggested that an addendum to the existing contract be approved to add the above work.

Plan of Financing

The Solid Waste Utility recently completed an expansion of the gas collection wellfield at the City landfill. The project came in under budget by approximately \$160,000. Since a carbon dashboard will be completed for the landfill, it was suggested that the wellfield expansion cost savings be used to fund the scope and tasks associated with this proposal.

MOTION:

On a motion by Brenda Derrig, seconded by Greta Gramig, the SRC voted to approve a sole-source procurement contract addendum with Innowatts Inc. for the development and operation of an ICRSR Plan and Carbon Dashboards for City facilities.

COMMITTEE:	Present	Yes	No	Unanimous
				<u>X</u>
				<u>Proxy</u>
John Strand, Commissioner Chair	X	X		
Tim Mahoney, Mayor	X	X		
Brenda Derrig, City Engineer	X	X		
Bekki Majerus, Director of Facilities	X	X		
Ben Dow, Public Works Director				
Shawn Ouradnik, Inspections Director	X	X		
Greta Gramig, Public At-Large	X	X		
Casey Steele, Public At-Large	X	X		
Jennifer Sweatman, Public At-Large				
Mark Williams, Assistant Planning Director	X	X		
Bruce Grubb, City Administrator	X	X		



John Strand, SRC Chair

**ADDENDUM TO INNOWATTS, INC. AND CITY OF FARGO, NORTH DAKOTA
MASTER SERVICES AGREEMENT DATED MARCH 24, 2021**

This Addendum Number 1 ("Addendum") is entered into and effective April 30, 2022 ("Effective Date"), by and between Innowatts, Inc. ("Innowatts") and City of Fargo, North Dakota ("Customer" or "Fargo"). This Addendum appends to the original Master Services Agreement ("Agreement") previously executed by Innowatts and Customer on March 24, 2021.

1. Defined Terms. All capitalized terms used, and not otherwise expressly defined, in this Addendum have the meaning given to such terms in the Agreement.

2. Purpose of Addendum. The Parties previously entered into Master Services Agreement to deliver intelligent control services and reporting for the Robert Commons Parking Ramp. The purpose of Addendum 1 is to expand the services from Innowatts to Fargo to provide Carbon Dashboard reporting for Fargo infrastructure, and to facilitate infrastructure Carbon Reduction, Sustainability & Resiliency (ICRSR) Plans.

3. Scope of Addendum. The March 24, 2021 Agreement is modified as follows. Innowatts will deliver to Fargo the following:

- Summary Carbon Dashboard for presentment on the Fargo website, including total and site-specific dashboards for up to 12 specific sites as mutually agreed upon.
- Detailed Carbon Dashboard delivered on Innowatts platform to show details behind Summary Carbon Dashboard for use by Fargo staff.
- Infrastructure Carbon Reduction, Sustainability & Resiliency (ICRSR) Plan for 2-3 City Sites
- High Level ICRSR City-Wide Plan to guide Infrastructure funding proposals.

Fargo responsibilities as related to these deliverables include:

- **Initially:** Help the Innowatts team determine which Input Data is routinely available (e.g., monthly energy usage data for each site)
- **Monthly:** Provide such data to the Innowatts Team for each site on a timely basis.
- **As appropriate:** Inform the Innowatts Team of equipment changes or other issues affecting energy use/emissions.

4. Fees. Fargo shall pay Innowatts an annual fee as follows:

Initial Payment: \$114,000 USD to be paid upon execution of this addendum. (\$104,000 for Dashboard and Plan development and \$10,000 for travel to facilitate workshops onsite at Fargo's offices.)

Monthly Payment: \$3,000 per month paid in advance beginning June 1, 2023 (This monthly fee is in addition to the \$2,000 paid per month for the intelligent control services and reporting for the Robert Commons Parking Ramp.)

5. Term: The scope and deliverables of Amendment 1 shall be coterminous with the Master Services Agreement Term as defined in section 4 of the Master Agreement.

EXCEPT AS EXPRESSLY MODIFIED BY THIS ADDENDUM AND PRIOR ADDENDA, ALL OTHER TERMS AND CONDITIONS OF THE AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT.

Each Party has caused this Addendum to be executed by its respective duly authorized representative on the dates entered below.

INNOWATTS, INC.

CITY OF FARGO, NORTH DAKOTA

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



Sole Source and Piggyback Procurement Form

Sole Source and Piggyback Justification for Procurement

The following information is offered for the sole source acquisition of goods or services described below. The purchase has been thoroughly researched and it has been determined that the vendor/brand is the only acceptable vendor/brand for the product or services that will fit the particular need.

Vendor Name:

Innowatts, Inc.

Estimated Dollar Amount of Purchase:

\$114,000

Is this procurement funded by a federal grant?

No

If yes, you must attach a document from the grant agency approving this procurement as a sole source.

The project/service is required to:

Create carbon dashboards and produce an Infrastructure Carbon Reduction, Sustainability and Resiliency (ICRSR) Plan for City facilities.

Description of features or capabilities unique to the vendor/brand being requested as related to project requirements:

Vendor previously produced a carbon dashboard for the RoCo Smart Energy parking ramp and would like to utilize the same vendor for consistency.

Provide a brief description of how your investigation was conducted. (Internet, publications, consultations) List all sources identified and investigated to determine that no other source exists for similar products capable of meeting requirements (Must be exhaustive of all sources for the commodity being purchased. **)

Vendor presented their work on the RoCo Smart Energy Ramp to the Sustainability and Resiliency Committee as it relates to the facility carbon dashboard.

****If all sources are not investigated a competitive solicitation must be issued.**

Provide a side-by-side comparison of the features/service of all other vendors/brands considered. (List the features or capabilities required for your project and how each vendor investigated does or does not meet those requirements. A table format is recommended)

NA This vendor performed identical work for the City's parking facility named the RoCo Smart Energy Ramp. For consistency and similar functionality, the SRC recommended utilizing the same vendor for other City facilities.

If the piggyback procurement method is being used, please provide a copy of the piggyback contract.

NA

Signature: Bruce P. Grubb
(Requestor)

Printed Name: Bruce P. Grubb

Department: Administration

Title: City Administrator

Date: 3/17/2022

I, hereby, certify that this justification for other than full and open competition is accurate and complete to the best of my knowledge and belief.

_____ (Requestor initials)



MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: NICOLE CRUTCHFIELD, PLANNING DIRECTOR *NC*

DATE: MARCH 30, 2022

RE: UPDATES ON AFFORDABLE HOUSING PRIORITIES

Recently, as part of the city initiated RFP solicitation and vetting processes for the three downtown properties, there has been much testimony and various committee discussions regarding access to housing. If helpful, I plan to provide a brief orientation on staff findings regarding housing strategies from recent reports and other resource materials as it relates to affordable housing needs at the upcoming City Commission meeting. I can also provide a brief overview of the planning department's upcoming work plan related to this complex topic.

37

MEMORANDUM

TO: Fargo City Commission

FROM: Jim Gilmour, Director of Strategic Planning and Research 

DATE: March 28, 2022

SUBJECT: Sale of 419 3rd Street North

This is a recommendation to sell City of Fargo property at 419 3rd Street North for redevelopment.

Background

The Fargo City Commission directed preparation of a Riverfront Renewal Plan in October 2020. The Riverfront Renewal Plan was completed and adopted by the City Commission in April 2021. This plan included actions to sell several city owned properties for redevelopment.

Request for proposals and selection criteria for the three properties were approved by the City Commission in September and October 2021. Proposals were due in November. Two proposals were submitted for the 419 3rd Street North property.

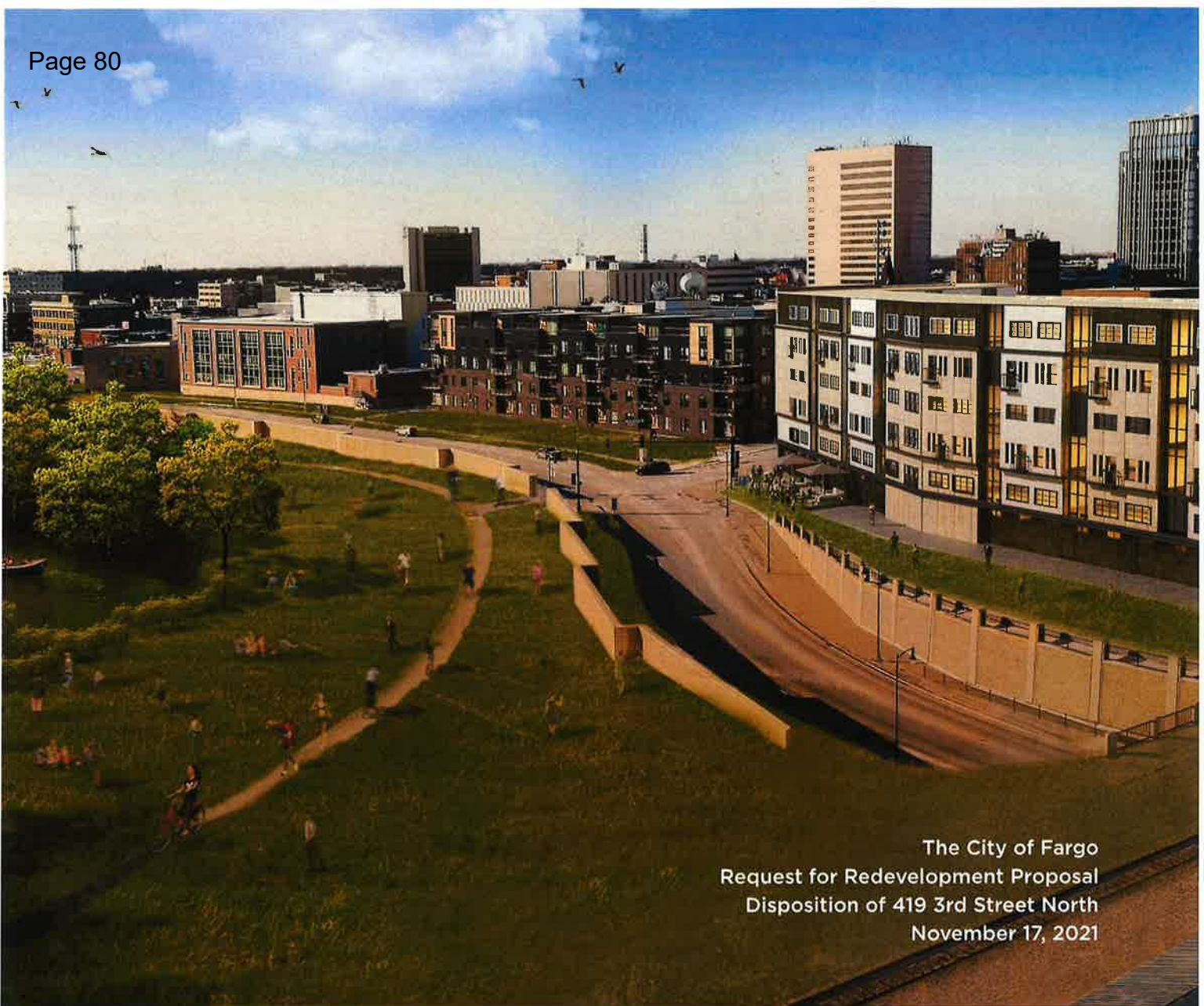
Review

Proposals were reviewed by the Economic Development Incentives Committee and the Renaissance Zone Authority. Of the 10 members of these Committees voting at a March 22nd meeting, 8 of the members voted to recommend selection of a proposal from Kilbourne Group.

Kilbourne Proposal

The Kilbourne proposal is to construct an apartment building on both the city property and a property to the south that this investor group will acquire for this project. The new building will have about 115 apartments and 152 parking spaces. The investment will be \$25 million. The offer is for \$162,984 with construction to begin in the fall of 2022 with planned completion in 2024. The developer will be requesting ~\$3 million in incentives, and a financial review will be conducted prior to consideration of that request. Kilbourne Group submitted a proposal with three options, which is attached. The recommendation is to approve Option 2.

Recommended Motion: Accept the offer from Kilbourne Group for 419 3rd Street North and direct City staff to draft a Development Agreement consistent with City plans and the offer from the developer.



The City of Fargo
Request for Redevelopment Proposal
Disposition of 419 3rd Street North
November 17, 2021

RIVERFRONT PROJECT

CONTACT

Mike Allmendinger
President, Kilbourne Group
210 Broadway Suite #300
Fargo, ND 58102

701-237-2279
mike@kilbournegroup.com





City of Fargo Auditor's Office
225 Fourth Street North
Fargo, ND 58102
Attention: Jim Gilmour, Director of Strategic Planning and Research

RE: Request for Development Proposals – Sale of 419 3rd Street North

Dear Mr. Gilmour,

Thank you for the opportunity to present our Development Proposal for the City of Fargo's property at 419 3rd Street North. When combined with the adjacent property at 225 4th Avenue North, this riverfront location in downtown Fargo holds exciting potential.

We envision a transformation of this largely vacant property into a new multifamily community, offering new options for riverfront living. Our proposal encompasses three options, ranging in size and unit counts, providing options for IIF commitments on behalf of the City of Fargo.

In each option, residences will offer direct views across the river to the iconic Hjemkomst Center. Regardless of the option pursued, the project will embrace the recreational opportunities of the Red River and incorporate a community clubroom, terrace, bike storage, and heated parking. Additionally, our team is conducting a market study to determine the need for 55+ housing. Our development proposals are poised to pivot in this direction if a market need exists.

Kilbourne Group is grateful for the City of Fargo's leadership and vision in creating a world-class urban experience guided by extensive citizen input and comprehensive planning. Fargo's plans to redevelop downtown property along the riverfront are certainly the next phase in the city's core revitalization.

The Fargo InFocus Plan identified the need for 8,000 additional residents in downtown Fargo to support our full potential as a neighborhood with a grocery store, pharmacy, and other desired services. Adding 300 units per year will accomplish this in 20 years. With downtown Fargo's development track record since the release of the InFocus Plan, we are well on our way to that goal.

Since 2006, Kilbourne Group has been fine-tuning its aptitude for development and construction in the downtown Fargo market, including specific expertise in multifamily projects. We have seen that more people living downtown means more vibrancy, activity, and commerce, supporting the local small businesses that make the neighborhood unique and highly walkable.

As we've fulfilled redevelopment partnerships with the City of Fargo, including Roberts Street, Mercantile, Block 9, and Broadway Square, it is our hope that we have established a solid track record of delivering on our commitments. We are excited to do so again as part of the City's riverfront redevelopment effort.

Sincerely,

Mike Allmendinger, President
Kilbourne Group
701.237.2279, mike@kilbournegroup.com

Table of Contents

02	City Planning Compatibility	18	Option 2
06	Project Features	20	Option 3
10	Unit Style	22	Financial Capacity
12	Amenities	24	Project Experience
14	Proposal Options Summary	28	About Our Company
16	Option 1	30	Purchase Price Offer

Special thanks to architectural photographer Dan Francis and lifestyle photographer Morgan Schief for the imagery contributions

City Planning Compatibility



“For years, Fargo has focused on revitalizing its core centered along and around Broadway. With development filling in many of the vacant spaces in the core of downtown, the next big opportunity is to step toward the Red River and integrate new development along it.”

-Downtown INFOCUS



A Plan For Downtown Fargo

The Downtown Fargo InFocus Plan is a vital playbook guiding the growth of Fargo's urban core. It has already influenced downtown developments, as well as the neighborhood's walkability, recreational offerings, and its urban design. The GO2030 Comprehensive Plan sets priorities for the benefit of the entire city.

As Fargo turns its attention to redeveloping downtown riverfront properties, it is doing so with an eye toward increasing downtown's housing stock and taxable property value. The project site in this RPP was identified in Downtown INFOCUS as an *Opportunity Site* and a *River Access Point*.

INFOCUS: Grow as a Neighborhood

Each option in our project proposal adds a significant number of new housing units to the neighborhood, which will infuse this area with people and energy. We understand the benefits of designing active and pedestrian-friendly public realms. This is reflected in dozens of downtown Fargo redevelopment projects adding to the vibrancy of this great city.

use of existing infrastructure. It's our entire development thesis. We build not only for a better downtown Fargo today but also for generations to come.

GO2030: Celebrate the River

In the heart of Fargo's flourishing downtown district, located across the street from the Red River, this project will offer direct access to the six-mile Red River bike and running trail network, including all the recreational opportunities along this urban greenway, such as cross-country skiing, snow-shoeing, canoeing, and fishing.

GO2030: High Design

Our project offers well-appointed units and on-site amenities, including a community clubroom, rooftop terraces, bike storage, and balconies with direct views of the river and the iconic Hjemkomst Center beyond in Moorhead.

GO2030: Promote Infill and Quality Development

Kilbourne Group uses a very considerate and thoughtful urban design process to develop high-quality infill projects, making the best



In 2017, Kilbourne Group hosted urban planning expert Bob Gibbs in a walking tour of downtown Fargo and we learned that the most successful retail districts don't leapfrog over non-commercial blocks, because it decreases walkability. It is for this reason we believe a resident-in-only project works best at this location, which is three blocks from the retail district in downtown. In fact, Downtown INFOCUS calls for the concentration of new retail locations to maintain the retail density and vibrancy we've built.





Project Design Style

Positioned at the intersection of 4th Avenue North and 2nd Street North in downtown Fargo, this riverfront multifamily development will be a quality addition to the City of Fargo's redevelopment efforts.

Complete with a brick exterior and precast stone, the riverfront project's units will feature glass patio doors and private balconies that overlook the Red River and the adjacent park trails to the east or face the stunning downtown skyline to the west.

For visual relief and aesthetic appeal at the pedestrian level, the ground-floor facade will consist of windows, doors, public art, and other architectural features using texture, recessed patterns, or other material mediums. The club room and landscaped outdoor patio area will be key features, as they will enhance residents' living experience through additional options for community to gather.



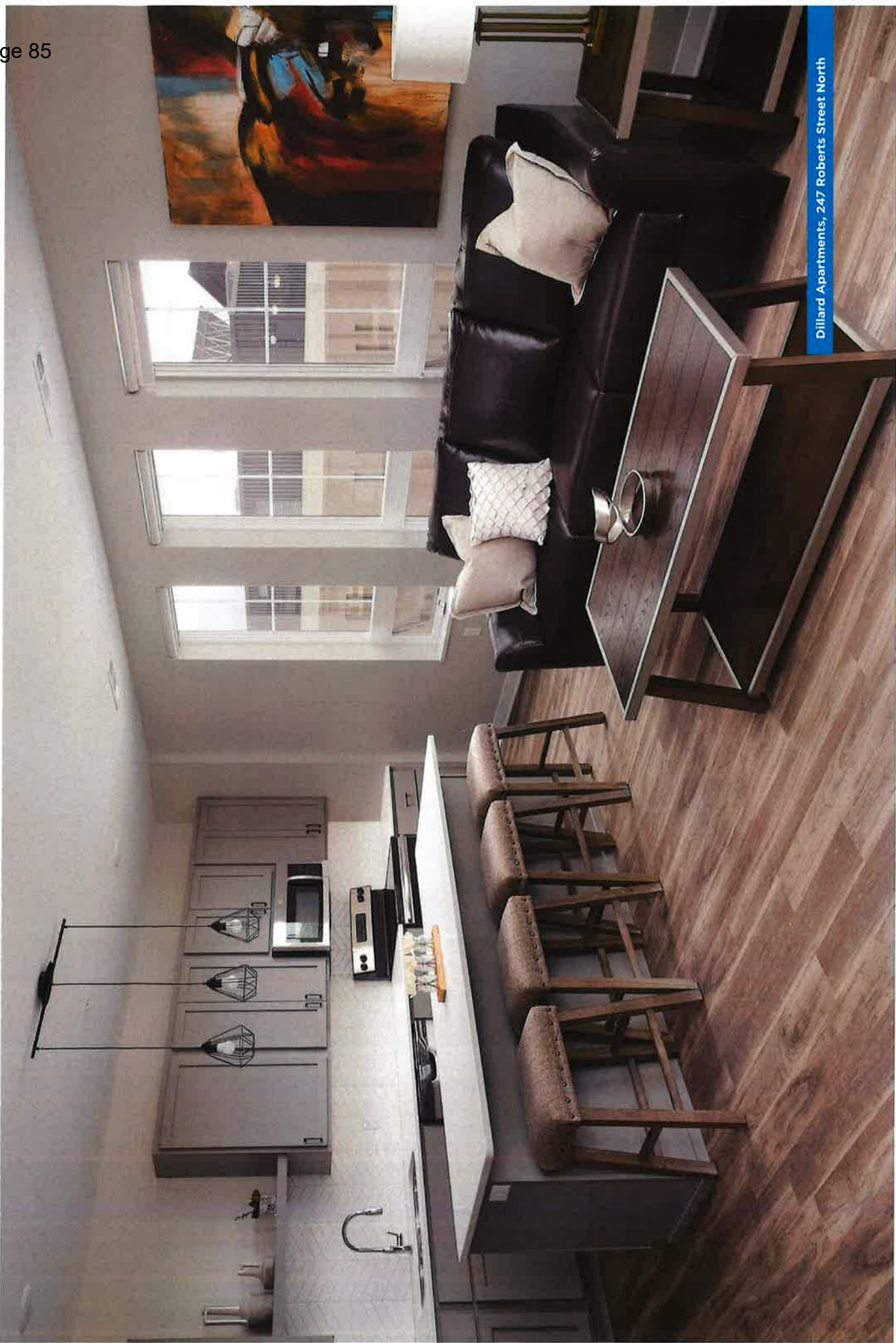
Sunset City Skyline Views



Bike Storage & Heated Parking



Landscaped Outdoor Patio



Dillard Apartments, 247 Roberts Street North

Unit Design Style

Our design vision for interior units is modern, yet timeless, ensuring it appeals to a wide variety of demographics. High-quality finishes and a thoughtful, neutral color palette will seamlessly work with whatever the resident's personal style may be.

Large windows and private balconies maximize the riverfront or downtown Fargo views from each unit. All units will be complete with an in-unit washer and dryer, smart home system, quartz countertops, stainless steel appliances, tile backsplash, premium lighting, and high-quality plumbing and finishes throughout.

Common spaces that are comfortable and inviting are important to foster a community within the development. Some elements we chose to include in the clubrooms are kitchenettes, fireplaces, lounge seating, and tables for anything from playing games to co-working.



Amenities

Throughout Kilbourne Group's portfolio of multifamily properties, the need for highly valued amenities has become apparent — ample amounts of natural light, indoor and outdoor spaces for gathering, user-friendly technology and security, and of course a walkable location.

Planned/possible amenities include:

- Entrance Lobby
- Opportunity for Rooftop Garden
- Clubroom
- Exercise Room
- Outdoor Patio with River Views
- Package Delivery
- SmartRent Technology
- Trash Chutes and Indoor Trash Room
- Pet Walk and Pet Wash
- Bike Room
- USER Station



Proposal Options Summary

Kilbourne Group is providing three different development proposals with ranging levels of investment.



1



2



3

Option 1

Option 1 would provide riverfront views for all +/-75 units as well as heated first floor parking (one stall per bed). This option would offer lower density and lower cost parking, keeping the total investment at \$15 MM.

Option 2

Option 2 increases the number of units to +/-115 and adds an additional +/- \$10 MM in private investment on this site, bringing the total project cost to \$25 MM. This is accomplished by constructing a first-floor podium across the entire site for parking (one stall per bed). This more complex and costly project achieves greater density for the site and a higher tax base for the City of Fargo. This option requires a larger TIF incentive to make the project feasible but nearly doubles the property taxes generated when compared to Option 1.

Option 3

Option 3 would expand the project to include the former Fargo Public Schools office building, which is for sale at the time of this proposal. This option significantly increases the private investment to \$67 MM through this two-phase development.

This project would include first-floor podium parking and underground parking to provide one stall per bed. Ground-floor walkup units would be located along 4th Avenue North and 4th Street North to match the context of the historic Burrell Apartments.

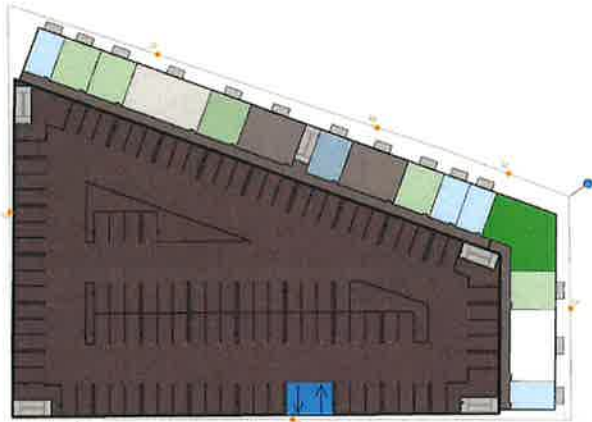
This project would require the largest TIF incentive of the three options because of the complex construction design, more costly underground parking, the greater risk for the developer, and the need to purchase the school property at \$4 MM. This project provides the highest tax base for the City of Fargo by adding +/-300 units.

PROJECT COMPARISON

	Option 1	Option 2	Option 3
Investment	\$15 MM	\$25 MM	\$67 MM
Units	74	114	310
Parking Stalls	107	152	397
Building Square Foot (Apartments)	72,000	104,000	292,000
TIF Assistance	\$804,164	\$3,003,995	\$8,427,530
Public TIF Increment (25 years)*	\$2,622,273	\$3,415,550	\$7,455,122
Public TIF + Property Tax (25 years)	\$4,050,557	\$4,843,834	\$10,025,450

*Taxing entities receive 100% of current property taxes in addition to public TIF increment.

Option 1



Project Narrative

Option 1 would create +/-75 market-rate apartments with riverfront views. This project would be a mix of studio, 1-bedroom, 2-bedroom, and 3-bedroom units. These units include central air and heat, in-unit washer and dryer, smart home system, large windows to maximize views of the riverfront, and balconies. The units would include quartz or granite countertops and coordinating cabinets with hardware, stainless steel appliances, tile backsplash, and premium light and plumbing fixtures in the kitchen. Bathrooms would have tiled floors, vanities with quartz or granite countertops, and premium light and plumbing fixtures. Common residential amenities include heated parking, trash chute, a residential lobby lounge, and a clubroom with landscaped patio.



\$15 MM Total Investment



Purchase Price - \$162,984



TIF Assistance - \$804,164



Annual Public Tax Increment Est.
Year 6 - \$104,891
Year 11 - \$139,855
Year 16 - \$139,855

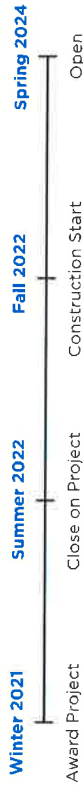
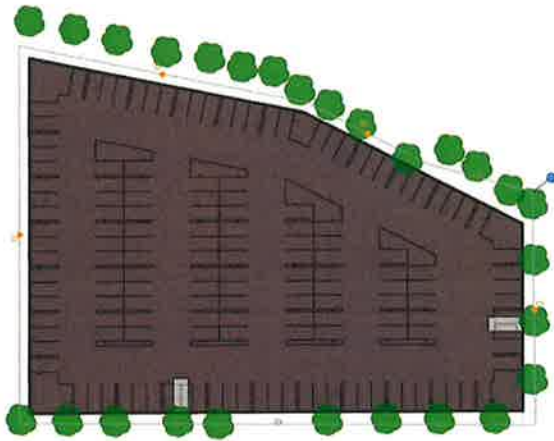
Project Summary

Square Footage	72,000
Investment	\$15 MM

Parking - Level 1	42,000 SF	107 Stalls
Apartments	72,000 SF	74 Units
Per Level	14,500 SF	15 Units



Option 2



Project Narrative

Option 2 would create +/-115 market-rate apartments with a mix of riverfront and downtown views. This project would include studio, 1-bedroom, 2-bedroom, and 3-bedroom units. These units include central air and heat, in-unit washer and dryer, smart home system, large windows in all units to maximize views. Select units will also feature balconies.

The units would include quartz or granite countertops and coordinating cabinets and hardware, stainless steel appliances, tile backsplash, and premium light and plumbing fixtures in the kitchen. Bathrooms would have tiled floors, vanities with quartz or granite countertops, and premium light and plumbing fixtures.

Common residential amenities include heated parking, trash chute, a residential lobby lounge, and a clubroom. A large, elevated terrace with resident seating and rooftop greenspace overlooking the river would be a signature feature for this project.



\$25 MM Total Investment



Purchase Price - \$162,984



TIF Assistance - \$3,003,995



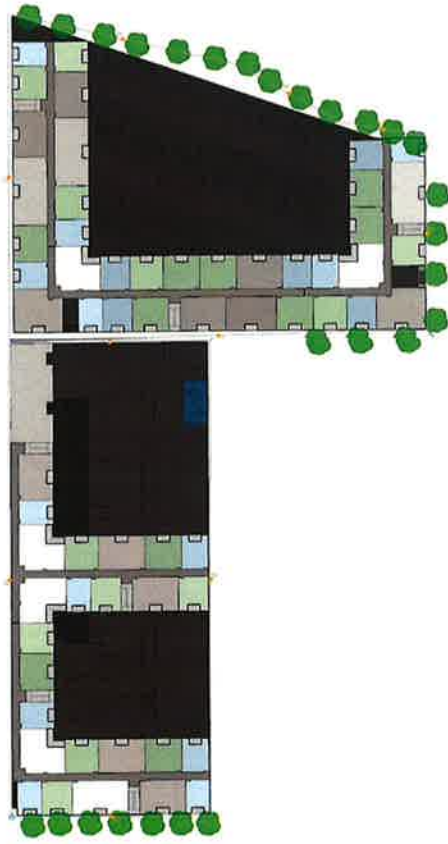
Annual Public Tax Increment Est.
Year 6 - \$62,101
Year 11 - \$124,202
Year 16 - \$248,404

Project Summary

Square Footage	104,000
Investment	\$25 MM

Parking - Level 1	58,000 SF	152 Stalls
Apartments	104,000 SF	114 Units
Per Level	26,000 SF	29 Units

Option 3



Project Narrative

Option 3 would create +/-300 market-rate apartments with a mix of riverfront and downtown views. This project would include studio, 1-bedroom, 2-bedroom, and 3-bedroom units. It would also include unique ground-floor units with walk-up front doors to provide a tailored residential experience and activate the frontage along 4th Street North and 4th Avenue North.

This project would be built in two phases, and all units will include central air and heat, in-unit washer and dryer, smart home system, and large windows in to maximize views. Select units will also feature balconies. The units would include quartz or granite countertops and coordinating cabinets with hardware, stainless steel appliances, tile backsplash, and premium light and plumbing fixtures in the kitchen. Bathrooms would have tiled floors, vanities with quartz or granite countertops, and premium light and plumbing fixtures.

Common residential amenities include heated ground-floor and underground parking, trash chute, a residential lobby lounge, and a clubroom. A large, elevated terrace with public seating and rooftop green-space overlooking the river would be a signature feature for phase one of this project, as well. The second phase would include an additional elevated terrace with outdoor amenities facing downtown with southern exposure to provide residents with a variety of unit orientations and experiences.



\$67 MM Total Investment



Purchase Price - \$162,984



TIF Assistance - \$8,427,530



Annual Public Tax Increment Est.
Year 6 - \$64,827
Year 11 - \$129,654
Year 16 - \$648,272

Project Summary

Square Footage	292,000
Investment	\$67 MM

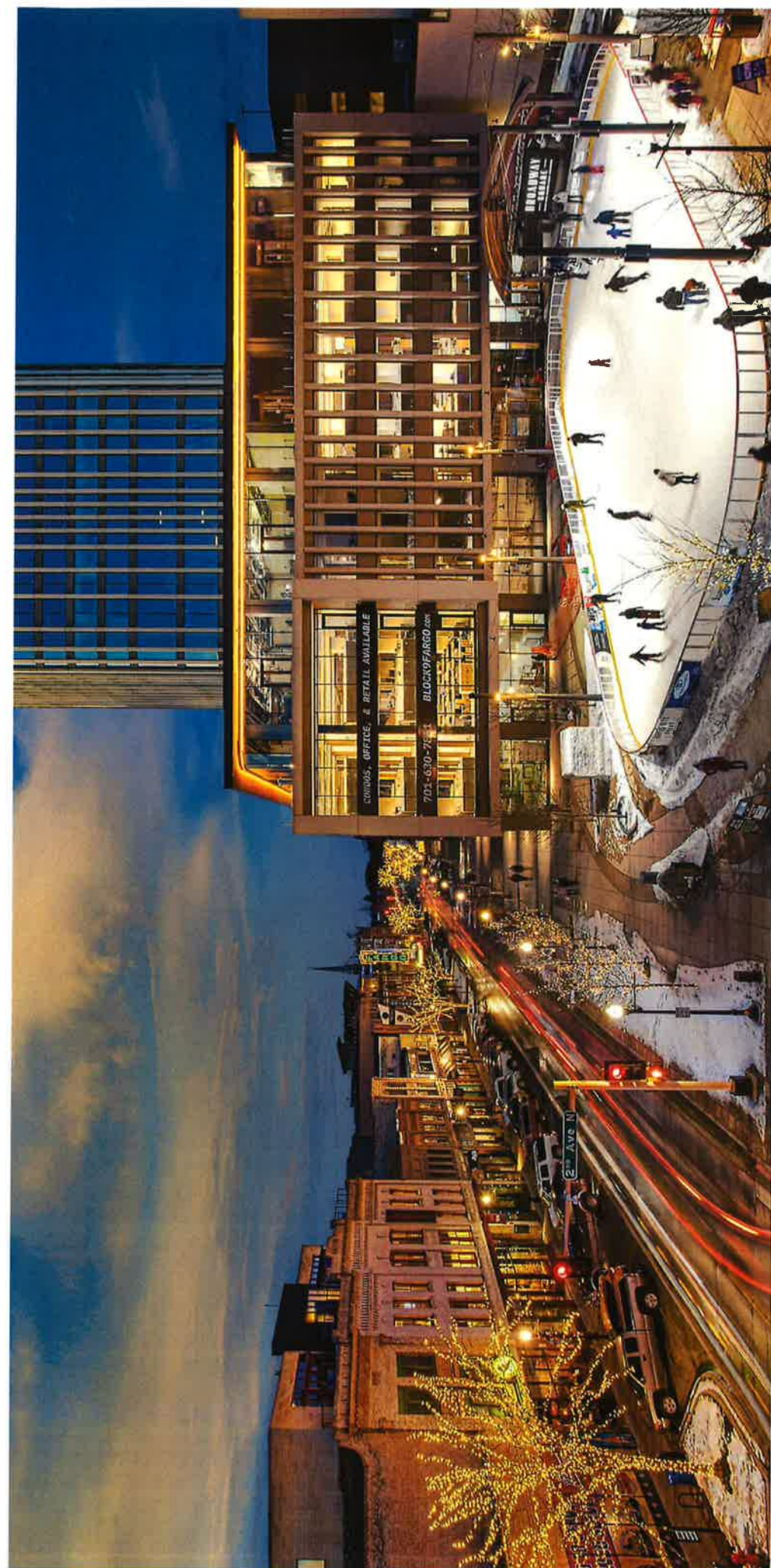
Parking - Total	153,000 SF	397 Stalls
Parking - Underground	53,000 SF	146 Stalls
Parking - Level 1	100,000 SF	251 Stalls
Apartments	292,000 SF	310 Units
Levels 2-6	56,000 SF	61 Units

Financial Capacity & Funding Sources

Kilbourne Group intends to finance the selected project through a combination of equity and bank-loan financing. Kilbourne Group plans to raise sufficient capital to cover the project requirements for the proposed development. It is estimated that this project will require 30-40% of project costs funded by equity with the remaining drawn from loan funding. Kilbourne has a successful track record of raising capital, having invested nearly \$400 MM into downtown Fargo in the past five years. Kilbourne Group intends to close on the land July of 2022. However, the Developer Agreement is to include the right to close as late as May 2023.



Project Experience





Woodrow

Mixed-Use Residential and Retail
1222 4th Avenue North, Fargo, ND 58102

Total Project Cost	\$15,587,047
Total SF	78,330
Status	Complete
Residential Units	97
Retail SF	0



Roberts Commons

Mixed-Use Residential and Retail
625 2nd Avenue North, Fargo, ND 58102

Total Project Cost	\$14,279,843
Total SF	69,232
Status	Complete
Residential Units	72
Retail SF	13,950



Dillard

Mixed-Use Residential and Retail
247 Roberts Street North, Fargo, ND 58102

Total Project Cost	\$17,357,979
Total SF	98,361
Status	Complete
Residential Units	84
Retail SF	12,440



Mercantile

Mixed-Use Residential and Retail
405 Broadway North, Fargo, ND 58102

Total Project Cost	\$23,171,962
Total SF	114,315
Status	Opening Spring 2022
Residential Units	100
Retail SF	16,922



The Landing at 1001 NP

Mixed-Use Residential and Retail
1001 NP Avenue North, Fargo, ND 58102

Total Project Cost	\$33,041,457
Total SF	217,073
Status	Opening Spring 2022
Residential Units	154
Retail SF	5,100



Kesler

Mixed-Use Residential and Retail
624 2nd Avenue North, Fargo, ND 58102

Total Project Cost	\$23,607,717
Total SF	146,630
Status	Opening Summer 2022
Residential Units	109
Retail SF	9,318



Kilbourne Group has assembled a highly qualified team of professionals with a visible track record of working together to make downtown Fargo projects a reality.



Kilbourne Group | Real Estate Developer

Since 2006, Kilbourne Group has been a leader in the revitalization of downtown Fargo. Kilbourne Group has invested in historical redevelopment and mixed-use infill projects designed to create a vibrant 18-hour city and offer unique experiences and places for residents, those working downtown, and visitors alike. Today, downtown Fargo is thriving with a retail district of more than 75 unique retail stores, 40 restaurants, more than 2,400 apartments, and more than 2 million square feet of office space. With proven expertise in urban development, fund management, real estate, construction management, and property management, Kilbourne Group is guided by the knowledge that vibrant downtowns create smart, healthy cities. Current development projects include Mercantile (410 Broadway), Kesler (624 2nd Avenue North), and The Landing at 1001 NP, which together bring to the market 363 residential units, 31,000 square feet of commercial space, and 653 parking spaces.

Project Team



Mike Allmendinger

President

- Founding team member of Kilbourne Group with more than 15 years of broad experience in identifying, developing, permitting, designing, building, and managing mixed-use redevelopment and infill projects in downtown Fargo
- Nearly 20 years of experience in historic renovation, adaptive reuse, and mixed-use urban infill projects, leading a multi-disciplinary, integrated team of professionals in real estate project, from site selection, acquisition, redevelopment, operations, and disposition
- Founder of Land Elements, a leading landscape architecture company base in Fargo, ND, acquired in 2019 by Des Moines-based Confluence



Bill Rothman

Chief Financial Officer

- Joined Kilbourne Group in 2017 as the Chief Financial Officer
- Over 30 years' experience in real estate and corporate finance with 15 years focused in capital raising, financial management, accounting, restructuring, mergers and acquisition, and capital markets



Deb Wendel Daub

Senior Project Manager

- Joined Kilbourne Group in 2016; licensed architect in ND and MN
- Leads and manages project vision, establishes initial project budgets and schedules, collaborates with stakeholders, assembles and manages the design team and consultant scopes, strives for optimal execution while staying within the budget and schedule, and serves as client liaison



Mike Zimney

Senior Project Manager

- Joined Kilbourne Group in 2015 with urban design expertise in developing mixed-use multifamily projects
- Manages the full cycle of the physical vertical development process, including entitlements, design, sub-consultant management, incentive packages, project schedule, managing and forecasting budgets, commercial tenant fit-ups, and community outreach
- Guides projects through program development and schematic design and serves as owner representative throughout the design and construction process



Keith Leier

Vice President of Development and Construction

- Joined Kilbourne Group in 2016
- Leads KCM, a full-service construction management company that specializes in mixed-use urban development and historic renovation
- Experience in commercial, retail, and multifamily projects, specializes in problem-solving on tight, urban construction sites
- Responsible for project planning, pre-construction services, construction management, and custom fit-up



Adrienne Olson

Vice President of Communications

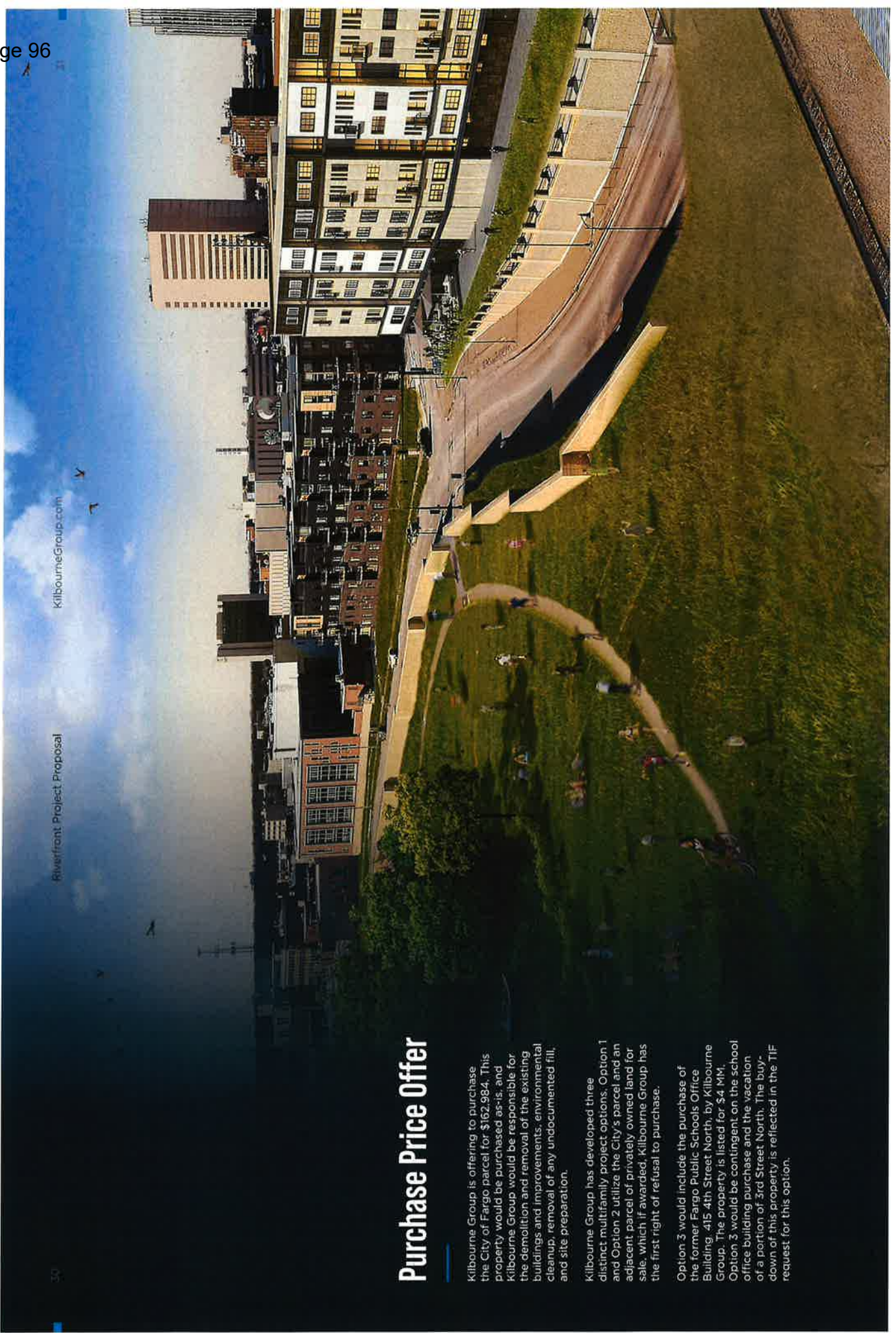
- Joined Kilbourne Group in 2015
- Responsible for stakeholder and neighborhood engagement, investor relations, branding, marketing, and media communications

Purchase Price Offer

Kilbourne Group is offering to purchase the City of Fargo parcel for \$162,984. This property would be purchased as-is, and Kilbourne Group would be responsible for the demolition and removal of the existing buildings and improvements, environmental cleanup, removal of any undocumented fill, and site preparation.

Kilbourne Group has developed three distinct multifamily project options. Option 1 and Option 2 utilize the City's parcel and an adjacent parcel of privately owned land for sale, which if awarded, Kilbourne Group has the first right of refusal to purchase.

Option 3 would include the purchase of the former Fargo Public Schools Office Building, 415 4th Street North, by Kilbourne Group. The property is listed for \$4 MM. Option 3 would be contingent on the school office building purchase and the vacation of a portion of 3rd Street North. The buy-down of this property is reflected in the TIF request for this option.



A nighttime photograph taken from inside a building, looking out through a large window. The window is divided into several panes by dark frames. Outside, a city street is visible, illuminated by streetlights and building lights. A prominent neon sign on the right side of the window reads "FARGO" in green letters. To the left, a tall building with many lit windows is visible. The sky is a deep blue. The overall scene is a vibrant urban night scene.

 **KILBOURNE**
GROUP



3800

March 17, 2022

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 2825 Maple St N as submitted by David and Brittany Piper. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$240 with the City of Fargo's share being \$40.

Sincerely,

A handwritten signature in black ink that reads "Mike Splonskowski".

Mike Splonskowski
City Assessor

n/b
attachment

Application For Property Tax Exemption For Improvements To Commercial And Residential Buildings

N.D.C.C. ch. 57-02.2

(File with the city assessor or county director of tax equalization)

Property Identification

1. Legal description of the property for which exemption is claimed Lot 6, Block 9, Elm Tree Park 2nd
2. Address of Property 2825 Maple St N
3. Parcel Number 01-0751-00430-000
4. Name of Property Owner David & Brittney Piper Phone No. _____
5. Mailing Address of Property Owner Same

Description Of Improvements For Exemption

6. Describe type of renovating, remodeling, alteration or addition made to the building for which exemption is claimed (attach additional sheets if necessary). Steel siding, soffit & fascia
7. Building permit No. 21-0903 8. Year built (residential property) 1971
9. Date of commencement of making the improvements 08/03/2021
10. Estimated market value of property before the improvements \$ 393,400.00
11. Cost of making the improvement (all labor, material and overhead) \$ 40,322.00
12. Estimated market value of property after the improvements \$ 411,900.00

Applicant's Certification And Signature

13. I certify that the information contained in this application is correct to the best of my knowledge.

Applicant *David Piper*

Date 10-30-2021

Assessor's Determination And Signature

14. The assessor/county director of tax equalization finds that the improvements described in this application do ☒ do not ☐ meet the qualifications for exemption for the following reason(s): _____

Assessor/Director of Tax Equalization *Mike Schumaker*

Date 3-17-2022

Action Of Governing Body

15. Action taken on this application by the governing board of the county or city: Approved ☐ Denied ☐
Approval is subject to the following conditions: _____

Exemption is allowed for years 20 __, 20 __, 20 __, 20 __, 20 __.

Chairperson _____

Date _____



386

March 8, 2022

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 1524 11 Ave S as submitted by Shaun Anderson and Jasmine Swinland. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$40 with the City of Fargo's share being \$10.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Splonskowski".

Mike Splonskowski
City Assessor

nlb
attachment

**Application For Property Tax Exemption For Improvements
To Commercial And Residential Buildings**
North Dakota Century Code ch. 57-02.2
(File with the local city or township assessor)

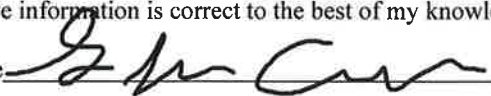
Property Identification

1. Name of Property Owner	Jasmine Swinland & Shaun Anderson	Phone No.	(701)-350-2676
2. Address of Property	1524 11th Ave S		
City	FARGO	State	ND Zip Code 58103
3. Legal description of the property for which the exemption is being claimed.	Fredrickson W 52' OF LOT 3 BLK 4		
4. Parcel Number	01-0960-00300-000	Residential <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Central Business District <input type="checkbox"/>	
5. Mailing Address of Property Owner	1524 11th Ave. S		
City	Fargo	State	ND Zip Code 58103

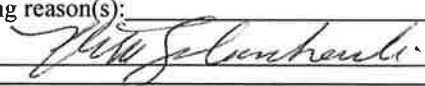
Description Of Improvements For Exemption

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary).	Sand & Finish Wood Flooring Natural & Refinish Transitions		
7. Building Permit No.	n/a	8. Year Built	1957
9. Date of Commencement of making the improvement	11/25/2019		
10. Estimated market value of property before improvement	\$	144,000	
11. Cost of making the improvement (all labor, material and overhead)	\$	3,213	
12. Estimated market value of property after improvement	\$	147,213	

Applicant's Certification and Signature

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.
Applicant's Signature  Date 02Mar2022

Assessor's Determination

14. The local assessor finds that the improvements in this application has <input checked="" type="checkbox"/> has not <input type="checkbox"/> met the qualifications for exemption for the following reason(s):
Assessor's Signature  Date 3-17-2022

Action of Governing Body

15. Action taken on this application by local governing board of the county or city: Denied <input type="checkbox"/> Approved <input type="checkbox"/>
Approval subject to the following conditions:
Chairman of Governing Body _____ Date _____

Submit Via Email



38C

March 3, 2022

Board of City Commissioners
City Hall
Fargo, ND 58102

Dear Commissioners:

Chapter 57-02.2 of the North Dakota Century Code provides for a property tax exemption for certain types of improvements made to existing buildings.

I have attached a copy of an application for real estate tax exemption of building improvements for the property at 2915 32 St S as submitted by James and Caryn Neary. A description of the property involved, types of improvements to be made, and assessment information are indicated on the application.

It is my opinion that the value of some of the improvements, referred to in the application, qualifies for the exemption. This exemption would be for 5 years.

The estimated annual tax revenue lost by granting the exemption, based upon the estimated cost of the improvements, would be about \$530 with the City of Fargo's share being \$90.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Splonskowski".

Mike Splonskowski
City Assessor

nlb
attachment

**Application For Property Tax Exemption For Improvements
To Commercial And Residential Buildings**

North Dakota Century Code ch. 57-02.2
(File with the local city or township assessor)

Property Identification

1. Name of Property Owner	<u>James & Caryn Neary</u>	Phone No.	<u>701-367-9772</u>
2. Address of Property	<u>2915 32nd St. S.</u>		
City	<u>FARGO</u>	State	<u>ND</u> Zip Code <u>58103</u>
3. Legal description of the property for which the exemption is being claimed.	<u>Lot 14 Block 1 Westlake 7th Add'n</u>		
4. Parcel Number	<u>01-4014-00140-000</u>	Residential <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Central Business District <input type="checkbox"/>	
5. Mailing Address of Property Owner	<u>Same</u>		
City		State	Zip Code

Description Of Improvements For Exemption

6. Describe the type of renovating, remodeling or alteration made to the building for which the exemption is being claimed (attach additional sheets if necessary).	<u>Added 20x24 addition to house</u> <u>Construct Addition</u>
7. Building Permit No.	<u>21030513</u>
8. Year Built	<u>1995</u>
9. Date of Commencement of making the improvement	<u>4/20/21</u>
10. Estimated market value of property before improvement	\$ <u>295,100</u>
11. Cost of making the improvement (all labor, material and overhead)	\$ <u>88,000</u>
12. Estimated market value of property after improvement	\$ <u>335,400</u>

Applicant's Certification and Signature

13. I certify that the above information is correct to the best of my knowledge and I apply for this exemption.	
Applicant's Signature	<u>Caryn Neary</u> Date <u>2-28-22</u>

Assessor's Determination

14. The local assessor finds that the improvements in this application has <input checked="" type="checkbox"/> has not <input type="checkbox"/> met the qualifications for exemption for the following reason(s):	
Assessor's Signature	<u>Keith Schaubert</u> Date <u>3-17-2022</u>


Action of Governing Body

15. Action taken on this application by local governing board of the county or city: Denied <input type="checkbox"/> Approved <input type="checkbox"/>	
Approval subject to the following conditions:	
Chairman of Governing Body	Date

39

MEMORANDUM

TO: BOARD OF CITY COMMISSIONERS

FROM: MAYOR TIMOTHY J. MAHONEY 

DATE: APRIL 4, 2022

SUBJECT: APPOINTMENTS TO THE COMMUNITY DEVELOPMENT COMMITTEE

The terms of Linda Klebe and Samantha McDonald as public members on the Community Development Committee expired on December 31, 2021. Both Ms. Klebe and Ms. McDonald are willing to continue their service on the Board.

I am, therefore, recommending the reappointment of Linda Klebe and Samantha Kunding to serve as public members on the Community Development Committee for three-year terms ending December 31, 2024.

Your favorable consideration of this recommendation will be greatly appreciated.

RECOMMENDED MOTION: To approve the reappointment of Linda Klebe and Samantha McDonald as public members on the Community Development Committee for three-year terms ending December 31, 2024.

mmappt22cdc